

SESSION LAWS
OF
HAWAII
PASSED BY THE
FOURTEENTH STATE LEGISLATURE

REGULAR SESSION
1988

Convened on Wednesday, January 20
and
Adjourned sine die on Wednesday, April 27

SPECIAL SESSION
1988

Convened on Friday, May 20
and
Adjourned sine die on Monday, May 23

Published by Authority of the
Revisor of Statutes
Honolulu, Hawaii

AUTHORITY

Section 23G-13, Hawaii Revised Statutes, provides as follows:

Publishing of session laws. As soon as possible after the close of each session of the legislature, the revisor of statutes shall prepare for publication all laws duly enacted at such session, arranged in the order of their becoming law, together with a suitable index and tables showing what general statutes have been affected by such session laws.

PREFACE

This volume contains all the laws of the Regular and Special Sessions of 1988. The text of the laws as enacted is followed except for palpable clerical errors, which have been corrected; and the text is printed in full except for laws repealing existing statutes.

As authorized by HRS §23G-16.5, amendatory legislation contains brackets (designating matter deleted from statutes) or underscoring (designating new matter added). However, the text is edited to omit the bracketed matter for HRS sections repealed in their entirety and to delete the underscoring from new HRS sections.

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

**Samuel B. K. Chang
Revisor of Statutes**

Honolulu, Hawaii
July 20, 1988

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Spark M. Matsunaga

House of Representatives:

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Patricia (Pat) Saiki

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Lieutenant Governor	Benjamin J. Cayetano

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REGULAR AND SPECIAL SESSIONS
1988**

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James Aki (D)

Twenty-Fifth District—(Kauai/Niihau)
Lehua Fernandes Salling (D)

D — Democrats	20
R — Republicans	5

¹Appointed to seat vacated by Richard Henderson.

²Elected to the House; appointed to seat vacated by Joseph T. Kuroda.

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D — Democrats	40
R — Republicans	11

¹Appointed to seat vacated by Eloise Yamashita Tungpalan.

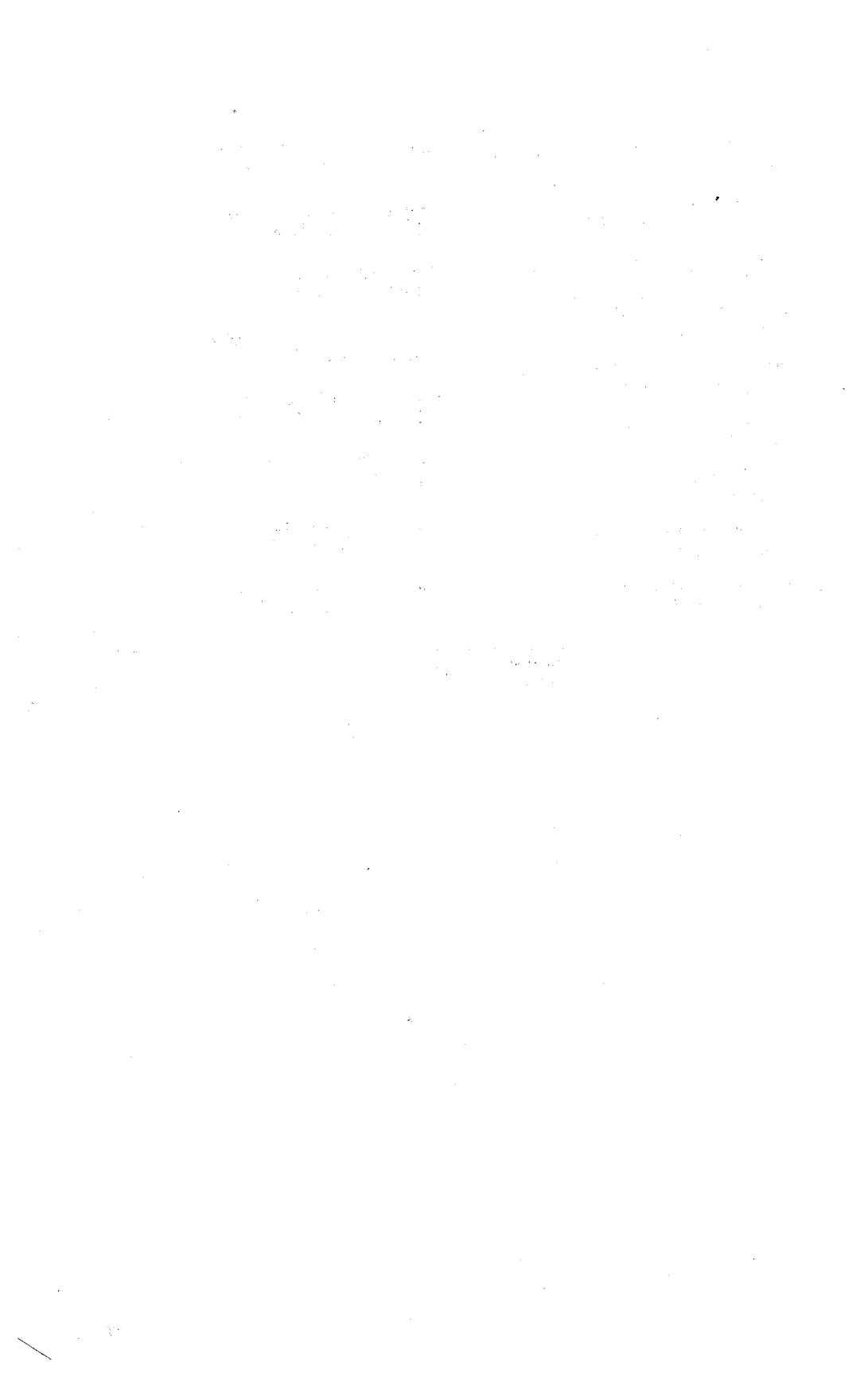


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Passed By The
Fourteenth State Legislature
Regular Session
1988**

ACT 1

H.B. NO. 321

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. This Act is recommended by the Governor for immediate passage in accordance with Article VII, section 9, of the Constitution of the State of Hawaii.

SECTION 2. The purpose of this Act is to appropriate or authorize, as the case may be, funds for the payment of collective bargaining cost items in the agreement reached with the exclusive representative of collective bargaining unit 5 for the 1987-89 fiscal biennium. Negotiations were not completed in time for a submittal to be made to the 1987 Legislative Session. The agreement was ratified by bargaining unit 5 on September 16, 1987. The intent of this Act is to provide the necessary authorizations and appropriations to allow for the implementation of pay raises on September 1, 1987, February 1, 1988, September 1, 1988, and February 1, 1989; and for increases in other cost items effective July 1, 1987.

PART II

SECTION 3. There are hereby appropriated or authorized from the sources of funding indicated below to Program Planning, Analysis, and Budgeting (BUF 101) the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1987-89 all collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 5:

	<u>FY 1987-88</u>	<u>FY 1988-89</u>
General Funds	15,522,718	41,013,729
Special Funds	160	320
Federal Funds	347,780	919,007
Other Funds	-0-	-0-

SECTION 4. Funds appropriated or authorized by this Act shall be allotted by the director of finance in the respective fiscal years for the purposes of this Part.

ACT 2

SECTION 5. 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 6. Funds appropriated or authorized by this Act which are not expended or encumbered by June 30, 1988, and June 30, 1989, of the respective fiscal years shall lapse as of those dates.

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

(Approved January 29, 1988.)

ACT 2

S.B. NO. 1

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

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 \$2,989,196, or so much thereof as may be necessary, for defraying any and all session and nonsession expenses of the Senate up to and including June 30, 1989, including but not limited to the 1988 regular session, Fourteenth Legislature of the State of Hawaii, and pre-session expenses and the expenses of any committee or committees established during the interim between the 1988 and 1989 regular sessions.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$3,899,380, or so much thereof as may be necessary, for defraying any and all session and nonsession expenses of the House of Representatives up to and including June 30, 1989, including but not limited to the 1988 regular session, Fourteenth Legislature of the State of Hawaii, and pre-session expenses and the expenses of any committee or committees established during the interim between the 1988 and 1989 regular sessions.

SECTION 3. Payment of expenses of the Senate during the interim between the 1988 and 1989 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 1988 and 1989 sessions shall be made only with the approval of the Speaker of the House of Representatives.

SECTION 4. Before January 18, 1989, the Senate and House of Representatives shall have their accounts audited and a full report of such audit shall be presented to the Senate and to the House of Representatives of the Legislature convening on January 18, 1989.

SECTION 5. The expenses of any member of the Legislature while traveling abroad on official business of the Legislature shall not be limited by the provisions of section 78-15, Hawaii Revised Statutes, or by any other general statute. Until otherwise prescribed by law, the expenses of such member shall be \$100 a day and authorized by the President of the Senate and the Speaker of the House of Representatives, respectively.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,025,366, to the office of the legislative auditor for the

following expenses: (a) the sum of \$1,585,000, or so much thereof as may be necessary, for defraying the expenses of the office of the legislative auditor during the fiscal year 1988-1989; (b) the sum of \$290,366, or so much thereof as may be necessary for defraying the expenses of the office of the state ethics commission during the fiscal year 1988-1989; (c) the sum of \$150,000, or so much thereof as may be necessary during the fiscal year 1988-1989, for (1) performing special studies, (2) improving capabilities for planning, programming and budgeting, (3) fulfilling other special requests made of the legislative auditor by the Legislature or jointly by the President of the Senate and the Speaker of the House of Representatives, (4) legislative studies and for contractual services for such studies, and (5) 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.

SECTION 7. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,531,469, or so much thereof as may be necessary, to the legislative reference bureau for defraying the expenses of the bureau during the fiscal year 1988-1989 including equipment relating to computer systems programming and operations.

SECTION 8. There is appropriated out of the general revenues of the State of Hawaii the sum of \$441,500, or so much thereof as may be necessary, to the office of the ombudsman for defraying the expenses of the office during the fiscal year 1988-1989.

SECTION 9. There is appropriated out of the general revenues of the State of Hawaii the following sums, or so much thereof as may be necessary, for defraying the expenses of the legislative information system (known as "SHADOW") which is currently being installed: (a) \$939,506 to the Senate; (b) \$1,533,229 to the House of Representatives; (c) \$56,919 to the legislative reference bureau. This appropriation shall be utilized to pay for hardware, software, consultant, installation, materials, supplies and other related costs associated with the legislative information system which have been or will be incurred. This appropriation shall take effect upon its approval and shall not lapse until June 30, 1989.

SECTION 10. As of the close of business on June 30, 1989, the unexpended or unencumbered balance of any appropriation made by this Act shall lapse into the general fund.

SECTION 11. Each section of this Act is declared to be severable from the remainder of this Act.

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

(Approved February 3, 1988.)

ACT 3

H.B. NO. 2438 .

A Bill for an Act Relating to Glass.

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

SECTION 1. The purpose of this Act is to repeal part XII of chapter 321, Hawaii Revised Statutes, relating to the safety glazing of glass. The overwhelming majority of laws regulating the construction of buildings and structures are contained in county building codes. This is appropriate because the counties have the general responsibility for issuing building permits and inspecting the sites. Part XII of chapter 321 regulates one aspect of one type of material used in the construction

ACT 4

of buildings, and supersedes county ordinances unless they are approved by the director of health as implementing the state law. The legislature finds that having this one law regulating a specific material in an area of law which is otherwise left entirely to county control is both illogical and an unwarranted intrusion in an area best regulated by the several counties through their building codes.

SECTION 2. Part XII of chapter 321, Hawaii Revised Statutes, is repealed.

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

(Approved April 6, 1988.)

ACT 4

S.B. NO. 3214

A Bill for an Act Relating to Health.

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

SECTION 1. Part IV of chapter 321, Hawaii Revised Statutes, is amended by amending the title to read:

"PART IV. [CRIPPLED] CHILDREN WITH SPECIAL HEALTH NEEDS"

SECTION 2. Section 321-51, Hawaii Revised Statutes, is amended to read as follows:

"§321-51 Department to administer chapter. The department of health is designated as the agency of the State to administer a program of services for children [who are crippled or who are suffering from conditions which lead to crippling.] with special health needs."

SECTION 3. Section 321-52, Hawaii Revised Statutes, is amended to read as follows:

"§321-52 Powers, duties, and activities of the department. To carry out the purposes of this part, the department of health may:

- (1) Establish and administer a program of services for children [who are crippled or who are suffering from conditions which lead to crippling.] with special health needs, which shall provide for developing, extending, and improving services, especially in rural areas, for locating such children, and for providing for medical, surgical, corrective, and other services and care, and facilities for diagnosis, hospitalization, and after-care; extend and improve any such services; cooperate with medical, health, nursing, and welfare groups and organizations and with any agency of the State charged with the administration of laws providing for vocational rehabilitation of [physically handicapped] children[; with special health needs; and, cooperate with the department of education for the education of such children;
- (2) Formulate and administer a detailed plan for the purposes specified in paragraph (1) above; and adopt such rules pursuant to chapter 91 as may be necessary or desirable for the administration of the plan and of this part. Any plan shall include provisions for:
 - (A) Financial participation by the State in the funds appropriated by the Congress of the United States under applicable federal legislation;

- (B) Administration of the plan by the department;
 - (C) Such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are necessary for the efficient operation of the plan;
 - (D) Maintenance of records and preparation of reports of services rendered as shall be directed by the Secretary of Health and Human Services of the United States;
 - (E) Carrying out the purposes specified in paragraph (1) above; and
 - (F) Cooperation with medical, health, nursing, and welfare groups and organizations and with any agency in the State charged with administering state laws providing for vocational rehabilitation of [physically handicapped] children[;] with special health needs;
- (3) Cooperate with the federal government through its appropriate agency or instrumentality in developing, extending, and improving such services and receive and expend all funds made available to the department by the federal government, the State, or its political subdivisions, or from any other sources, including private donations, for such purposes; and
- (4) Take all other actions necessary or desirable to carry out the purposes of this part."

SECTION 4. Section 321-53, Hawaii Revised Statutes, is amended to read as follows:

"§321-53 Funds. The director of finance shall be the custodian of all moneys appropriated for or received by the department of health from any sources whatsoever for the purposes of this part and shall deposit such moneys in the [crippled children] fund[.] for children with special health needs. All expenditures and withdrawals from the fund shall be upon warrants issued by the comptroller of the State upon vouchers properly approved by the director of health."

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

SECTION 6. This Act shall take effect upon its approval.

(Approved April 6, 1988.)

ACT 5

H.B. NO. 2439

A Bill for an Act Relating to Commissioner of Deeds.

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

SECTION 1. The purpose of this Act is to eliminate an obsolete law relating to commissioners of deeds. No commissioner of deeds has been appointed since the original passage of the law in 1915, and their functions as provided by that law, have been met satisfactorily by notaries public and members of the United States Consular Corps.

SECTION 2. Chapter 503, Hawaii Revised Statutes, is repealed.

SECTION 3. All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the commissioners of deeds, or any

ACT 6

person serving in that capacity, relating to the functions of the commissioners of deeds shall be transferred to the office of the lieutenant governor.

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

(Approved April 6, 1988.)

ACT 6

S.B. NO. 70

A Bill for an Act Relating to Horizontal Property Regimes.

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

SECTION 1. Section 514A-94, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) All costs and expenses, including reasonable attorneys’ fees, incurred by or on behalf of the association for:

- (1) Collecting any delinquent assessments against any owner’s apartment;
- (2) Foreclosing any lien thereon; or
- (3) Enforcing any provision of the declaration, bylaws, house rules, and the Horizontal Property Act[;] or

[(4) The] the rules [and regulations] of the real estate commission; against an owner, occupant, tenant, employee of an owner, or any other person who may in any manner use the property shall be promptly paid on demand to the association by such person or persons; provided that if the claims upon which the association takes any action are not substantiated, all costs and expenses, including reasonable attorneys’ fees, incurred by any such person or persons as a result of the action of the association, shall be promptly paid on demand to such person or persons by the association.”

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

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

(Approved April 7, 1988.)

ACT 7

S.B. NO. 2036

A Bill for an Act Relating to Parks.

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

SECTION 1. The purpose of this Act is to repeal Act 38, Session Laws of Hawaii 1984. Act 38 authorized the transfer of certain parks between the State and the city and county of Honolulu, but prohibited the transfer of personnel. Act 335, Session Laws of Hawaii 1987, provides general authority for the State and all of the counties to transfer park lands along with improvements, personnel, equipment, and functions.

Act 335, Session Laws of Hawaii 1987, effectively supersedes Act 38, Session Laws of Hawaii 1984, which was never implemented, and is also broader in scope and more flexible for purposes of implementation, thus making it a more appropriate law to retain. Accordingly, Act 38, Session Laws of Hawaii 1984, no longer serves any functional purpose, and should be repealed.

SECTION 2. Act 38, Session Laws of Hawaii 1984 is repealed.

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

(Approved April 7, 1988.)

ACT 8

H.B. NO. 1062

A Bill for an Act Relating to Pensioners Bonus and Post Retirement Allowance.

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

SECTION 1. Section 88-83, Hawaii Revised Statutes, is amended to read as follows:

“§88-83 Election of mode of retirement allowance. (a) Maximum allowance: Upon retirement, any member may elect to receive the maximum retirement allowance to which the member is entitled computed in accordance with the provisions described under section 88-74, 88-76, 88-78, or 88-80 [of this part] and in the event of the member's death, there shall be paid to the member's beneficiary, otherwise to the member's estate, the difference between the balance of the member's accumulated contributions at the time of the member's retirement and the retirement allowance paid or payable to the member prior to death.

In lieu of this maximum allowance, the member may elect to receive the member's retirement allowance under any one of the optional plans described below, which shall be actuarially equivalent to the maximum allowance.

Option 1: The member may elect to receive a lesser retirement allowance during the member's lifetime. At the member's retirement, there shall be established an amount of initial insurance which shall be computed on the basis of actuarial factors adopted by the board of trustees. Upon the death of the retirent, any balance remaining in the initial insurance reserve after deducting the retirement allowance paid to the retirent prior to death, shall be paid to the retirent's beneficiary, otherwise to the retirent's estate. In lieu of the lump sum balance, the beneficiary may elect to receive payment in one of the following ways: (1) an allowance for life based on the value of the balance; provided that the allowance is not less than \$10 per month; or (2) cash payment in part and a reduced allowance for life based on the value of the remaining balance; provided that the allowance is not less than \$10 per month.

Option 2: The member may elect to receive a lesser retirement allowance during the member's lifetime and have such allowances, including cumulative post retirement, if applicable, continued after the member's death to the member's beneficiary during the lifetime of such person. In the event of death of the beneficiary prior to that of the retirent, all further payments shall cease upon the death of the retirent.

Option 3: The member may elect to receive a lesser retirement allowance during the member's lifetime and have one-half of such allowance, including fifty per cent of all cumulative post retirement allowances, if applicable, continued after the member's death to the member's beneficiary during the lifetime of such person. In the event of death of the beneficiary prior to that of the retirent, all further payments shall cease upon the death of the retirent.

Option 4: The member may elect to receive a lesser retirement allowance during the member's lifetime and provide some other benefit to the member's beneficiary in accordance with the member's own specification; provided[, how-

ACT 8

ever,] that such election shall be certified by the actuary to be the actuarial equivalent of the member's retirement allowance and shall be approved by the board.

Option 5: The member may elect to receive the balance of the member's accumulated contributions at the time of retirement in a lump sum and, during the member's lifetime a retirement allowance equal to the maximum retirement allowance reduced by the actuarial equivalent of these contributions. Upon the death of the retirent, all further payments shall cease. Only a member retiring for service having at least ten years of credited service or for disability may elect this mode of retirement.

To receive benefits, the beneficiary must have been designated by the member in such form and manner as is prescribed by the board.

In the event of the death of the retirent within one year after the date of retirement, the retirent's beneficiary may elect to receive either the death benefits under the mode of retirement selected, or in lieu thereof, such benefits as would have been paid had the retirent died immediately prior to retirement, less any payments which the retirent received.

Any election of a mode of retirement allowance shall be irrevocable.

(b) Section 88-84 to the contrary notwithstanding, in the event of the death of a member after the date of the filing of the member's written application to retire, the designated beneficiary, otherwise the personal representative of the member's estate, shall receive the allowance under the option selected by the member which would have been payable had the member retired, and the benefits paid to the beneficiary or representative shall be computed as though the member had died on or after the effective date of the member's retirement.

Any election of a mode of retirement shall be irrevocable."

SECTION 2. Section 88-283, Hawaii Revised Statutes, is amended to read as follows:

"§88-283 Retirement allowance options. A member may elect to have the member's normal, early, or disability retirement allowance paid under one of the following actuarially equivalent amounts:

- (1) Option A: A reduced allowance payable to the member, then upon the member's death, one-half of such allowance, including fifty per cent of all cumulative post retirement allowances, to the member's beneficiary designated by the member at the time of retirement, for the life of the beneficiary.
- (2) Option B: A reduced allowance payable to the member, then upon the member's death, the same allowance, including cumulative post retirement allowances, paid to the member's beneficiary designated by the member at the time of retirement, for the life of the beneficiary.
- (3) Option C: A reduced allowance payable to the member, and if the member dies within ten years, the same allowance, including cumulative post retirement allowances, paid to the member's beneficiary designated by the member at the time of retirement, for the balance of the ten-year period.
- (4) Any election of a mode of retirement shall be irrevocable."

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. New statutory material is underscored.

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

(Approved April 11, 1988.)

ACT 9

S.B. NO. 1184

A Bill for an Act Relating to Gubernatorial Transition.

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

SECTION 1. Section 30-6, Hawaii Revised Statutes, is amended to read as follows:

“[[§30-6]] Budget request. The governor shall include in the budget transmitted to the legislature, for each fiscal year in which the governor's regular term of office will expire, a request for appropriation of [\$50,000] \$100,000 for carrying out the purposes of this chapter.”

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

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

(Approved April 11, 1988.)

ACT 10

S.B. NO. 2829

A Bill for an Act Relating to Income Taxation.

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

SECTION 1. Chapter 235, Hawaii Revised Statutes, is amended as follows:

1. By adding a new section to be appropriately designated and to read as follows:

“§235- Alternative tax for corporations. Section 1201 (with respect to alternative tax for corporations) of the Internal Revenue Code shall be operative for the purposes of this chapter and shall be applied as set forth in this section. If for any taxable year a corporation, regulated investment company, or real estate investment trust has a net capital gain, then, in lieu of the tax imposed by section 235-71, there is hereby imposed a tax (if such tax is less than the tax imposed under section 235-71) which shall consist of the sum of:

- (1) A tax computed on the taxable income reduced by the amount of the net capital gain, at the rates and in the manner as if this section had not been enacted, plus
- (2) The sum of:
 - (A) 3.08 per cent of the lesser of:
 - (i) The net capital gain determined by including only the gain or loss which is properly taken into account for the portion of the taxable year before April 1, 1987 (i.e., the amount in paragraph (1)), or
 - (ii) The net capital gain for the taxable year, plus
 - (B) 4 per cent of the excess (if any) of:
 - (i) The net capital gain for the taxable year, over
 - (ii) The amount of the net capital gain taken into account under subparagraph (A)."

2. Section 235-2.3 is amended by amending subsection (b) to read as follows:

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“(b) The following Internal Revenue Code subchapters, parts of subchapters, sections, subsections, and parts of subsections shall not be operative for the purposes of this chapter, unless otherwise provided:

- (1) Subchapter A (sections 1 to 59) (with respect to determination of tax liability), except sections 47 and 48, as amended, as of December 31, 1984¹ (with respect to certain depreciable tangible personal property). For treatment, see section 235-110.7.
- (2) Section 78 (with respect to dividends received from certain foreign corporations by domestic corporations choosing foreign tax credit).
- (3) Section 86 (with respect to social security and tier 1 railroad retirement benefits).
- (4) Section 103 (with respect to interest on state and local bonds). For treatment, see section 235-7(b).
- (5) Section 120 (with respect to amounts received under qualified group legal services plans). For treatment, see sections 235-2.4 and 235-7(a)(9) to (11).
- (6) Section 122 (with respect to certain reduced uniformed services retirement pay). For treatment, see section 235-7(a)(3).
- (7) Subchapter B (sections 141 to 150) (with respect to tax exemption requirements for state and local bonds).
- (8) Section 151 (with respect to allowance of deductions for personal exemptions). For treatment, see section 235-54.
- (9) Section 169 (with respect to amortization of pollution control facilities). For treatment, see section 235-11.
- (10) Section 196 (with respect to deduction for certain unused investment credits).
- (11) Subchapter B, part VIII (sections 241 to 250) (with respect to special deductions for corporations), except sections 248 (with respect to organizational expenditures) and 249 (with respect to limitation on deduction of bond premium on repurchase). For treatment, see section 235-7(c).
- (12) Section 269A (with respect to personal service corporations formed or availed of to avoid or evade income tax).
- (13) Section 280C (with respect to certain expenses for which credits are allowable).
- (14) Section 280D (with respect to portion of chapter 45 taxes for which credit or refund is allowable under section 6429).
- (15) Section 291 (with respect to special rules relating to corporate preference items).
- (16) Section 367 (with respect to foreign corporations).
- (17) Section 501(c)(12), (15), (16) (with respect to exempt organizations).
- (18) Section 515 (with respect to taxes of foreign countries and possessions of the United States).
- (19) Section 521 (with respect to exemption of farmers cooperatives from tax). For treatment, see section 421-23.
- (20) Subchapter G (sections 531 to 565) (with respect to corporations used to avoid income tax on shareholders).
- (21) Subchapter H (sections 581 to 596) (with respect to banking institutions). For treatment, see chapter 241.
- (22) Section 642(a), (b), and (d) (with respect to special rules for credits and deductions).
- (23) Section 668 (with respect to interest charge on accumulation distributions from foreign trusts).

- (24) Subchapter L (sections 801 to 846) (with respect to insurance companies). For treatment, see sections 431-318 and 431-320.
- (25) Section 853 (with respect to foreign tax credit allowed to shareholders). For treatment, see section 235-55.
- (26) Subchapter N (sections 861 to 999) (with respect to tax based on income from sources within or without the United States), except part IV (sections 991 to 997) (with respect to domestic international sales corporations). For treatment, see sections 235-4, 235-5, and 235-7(b).
- (27) Section 1055 (with respect to redeemable ground rents).
- (28) Section 1057 (with respect to election to treat transfer to foreign trust, etc., as taxable exchange).
- [29] Section 1201 (with respect to alternative tax). For treatment, see section 235-71(a).
- (30)] (29) Subchapter Q (sections 1311 to 1351) (with respect to readjustment of tax between years and special limitations).
- [31)] (30) Subchapter T (sections 1381 to 1388) (with respect to cooperatives and their patrons). For treatment, see chapter 421."

3. Section 235-71 is amended by amending subsections (a) and (b) to read as follows:

"(a) A tax at the rates herein provided shall be assessed, levied, collected, and paid for each taxable year on the taxable income of every corporation, including a corporation carrying on business in partnership, except that in the case of a regulated investment company the tax is as provided by subsection (b) and further that in the case of a real estate investment trust as defined in section 856 of the Internal Revenue Code of 1954 the tax is as provided in subsection (d). "Corporation" includes any professional corporation incorporated pursuant to chapter 415A.

The tax on all taxable income [other than income from capital gains] shall be at the rate of 4.4 per cent if the taxable income is not over \$25,000, 5.4 per cent if over \$25,000, but not over \$100,000, and on all over \$100,000, 6.4 per cent[; provided that the tax imposed on capital gain entitled to the alternate tax treatment under the Internal Revenue Code shall be imposed at the rate of 3.08 per cent on the amount of capital gain received before April 1, 1987, and 4 per cent of the amount of capital gain received after March 31, 1987].

(b) In the case of a regulated investment company there is imposed on the taxable income, computed as provided in sections 852 and 855 of the Internal Revenue Code but with the changes and adjustments made by this chapter (without prejudice to the generality of the foregoing, the deduction for dividends paid is limited to such amount of dividends as is attributable to income taxable under this chapter), a tax consisting in the sum of the following: 4.4 per cent if the taxable income is not over \$25,000, 5.4 per cent if over \$25,000 but not over \$100,000, and on all over \$100,000, 6.4 per cent[; provided that the tax imposed on the amount of capital gain which is taxed under section 852(b)(3)(A) of the Internal Revenue Code shall be 3.08 per cent of the amount received before April 1, 1987, and 4 per cent of the amount received after March 31, 1987]."

4. Section 235-71 is amended by amending subsection (d) to read as follows:

"(d) In the case of a real estate investment trust there is imposed on the taxable income, computed as provided in sections 857 and 858 of the Internal Revenue Code but with the changes and adjustments made by this chapter (without prejudice to the generality of the foregoing, the deduction for dividends paid is limited to such amount of dividends as is attributable to income taxable under this chapter), a tax consisting in the sum of the following: 4.4 per cent if the taxable income is not over \$25,000, 5.4 per cent if over \$25,000 but not over \$100,000, and on all over \$100,000, 6.4 per cent[; provided that the tax imposed on the amount of capital gain which is taxed under section 857(b)(3)(A) of the Internal

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Revenue Code shall be 3.08 per cent of the amount received before April 1, 1987, and 4 per cent of the amount received after March 31, 1987]. In addition to any other penalty provided by law any real estate investment trust whose tax liability for any taxable year is deemed to be increased pursuant to section 859(b)(2)(A) or 860(c)(1)(A) after December 31, 1978 (relating to interest and additions to tax determined with respect to the amount of the deduction for deficiency dividends allowed) of the Internal Revenue Code shall pay a penalty in an amount equal to the amount of interest for which such trust is liable that is attributable solely to such increase. The penalty payable under this subsection with respect to any determination shall not exceed one-half of the amount of the deduction allowed by section 859(a), or 860(a) after December 31, 1978, of the Internal Revenue Code for such taxable year."

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

SECTION 3. This Act, upon its approval, shall apply to taxable years beginning after, or parts of taxable years occurring after, December 31, 1987.

(Approved April 11, 1988.)

Notes

1. Prior to amendment, " " appeared here.
2. Edited pursuant to HRS §23G-16.5.

ACT 11

S.B. NO. 2837

A Bill for an Act Relating to the Excise Tax Credit.

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

SECTION 1. Section 235-55.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Tax credit schedule. Each taxpayer may claim tax credits in the amount indicated for each adjusted gross income bracket as shown in the schedule below multiplied by the number of qualified exemptions to which the taxpayer is entitled; provided each taxpayer sixty-five years of age or over may claim double the tax credit.

EXCISE TAX CREDIT SCHEDULE

Adjusted Gross Income	Tax Credit
[Under \$ 5,000	\$48
\$ 5,000 under \$ 6,000	39
6,000 under 7,000	34
7,000 under 8,000	32
8,000 under 9,000	27
9,000 under 10,000	24
10,000 under 11,000	20
11,000 under 12,000	17
12,000 under 13,000	14
13,000 under 14,000	10
14,000 under 20,000	8]
Under \$ 6,000	\$55
<u>\$ 6,000 under \$ 8,000</u>	<u>45</u>

<u>8,000 under 10,000</u>	<u>35</u>
<u>10,000 under 12,000</u>	<u>25</u>
<u>12,000 under 15,000</u>	<u>20</u>
<u>15,000 under 20,000</u>	<u>15</u>
<u>20,000 under 30,000</u>	<u>10"</u>

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

SECTION 3. This Act, upon its approval, shall apply to taxable years beginning, or parts of taxable years occurring, after December 31, 1987.

(Approved April 11, 1988.)

ACT 12

S.B. NO. 3310

A Bill for an Act Relating to Hunting.

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

SECTION 1. Section 183D-3, Hawaii Revised Statutes, is amended to read as follows:

“§183D-3 Rules. Subject to chapter 91, the department shall adopt, amend, and repeal rules:

- (1) Concerning the preservation, protection, regulation, extension, and utilization of, and conditions for entry into wildlife sanctuaries, game management areas, and public hunting areas designated by the department;
- (2) Protecting, conserving, monitoring, propagating, and harvesting wildlife; [and]
- (3) Concerning size limits, bag limits, open and closed seasons, and specifications of hunting gear which may be used or possessed[.]; and
- (4) Setting fees for activities permitted under this chapter, unless otherwise provided for by law.

The rules may vary from county to county or in any part of the county and may specify certain days of the week or certain hours of the day in designating open seasons[.], except that any fees established by rule shall be the same for each county. All rules shall have the force and effect of law.”

SECTION 2. Section 183D-22, Hawaii Revised Statutes, is amended to read as follows:

“§183D-22 Application and issuance of licenses; fees. Hunting licenses shall be issued by agents of the department upon written application in the form prescribed by the department and the payment of a hunting license fee or any other hunting related fee the board may require as provided in this [section.] chapter. The application shall require a statement under oath of the applicant's name, address, domicile or residence, length of residence in the State, age, race, height, weight, and color of hair and eyes. The hunting license fee shall be:

- (1) \$7.50 for any person who has resided in the State for one year or longer, or who is a member of the armed forces of the United States on active duty and the spouse and children thereof;
- (2) \$15 for all other persons; and

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(3) Free to all persons sixty-five years of age or older."

SECTION 3. Section 183D-29, Hawaii Revised Statutes, is amended to read as follows:

"§183D-29 Agents to collect application fees and sell licenses. (a) The department may designate agents to collect hunting application fees and sell hunting licenses in accordance with this section. Agents shall report all collections of application fees and sales of licenses to the department monthly and not later than the fifteenth day of the month following the month covered by the report. Wilful failure to make a report shall be cause for cancellation of the agency and upon the cancellation a full accounting and settlement for all applications and licenses shall be made forthwith. All fees collected including application fees shall be remitted to the department at the same time as the report of license sales is made. If the agents prepay for the licenses, then the fees collected shall be retained by the agents, rather than remitted to the department.

(b) Agents shall receive ten per cent of the value of application fees collected and licenses sold. All reports on application fee collections and license sales shall be made on forms supplied by the department. The duly authorized agents of the department may administer oaths as required in license applications. Chapter 40 shall not apply to the agents."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved April 19, 1988.)

ACT 13

S.B. NO. 3212

A Bill for an Act Relating to Hawaii State Hospital.

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

SECTION 1. Section 334-31, Hawaii Revised Statutes, is amended to read as follows:

"§334-31 Establishment of state hospital. There shall be, in the city and county of Honolulu, under the department of health, a suitable hospital for the care, custody, diagnosis, treatment, and rehabilitation of mentally ill persons and of persons who are both mentally ill and habituated to the excessive use of drugs or alcohol, for the training of mental health personnel, and for research in mental illness, drug addiction, and alcoholism."

SECTION 2. New statutory material is underscored.

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

(Approved April 20, 1988.)

ACT 14

S.B. NO. 3213

A Bill for an Act Relating to Mental Health.

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

SECTION 1. Section 334-74, Hawaii Revised Statutes, is amended to read as follows:

“§334-74 Transfer of residents of correctional facilities. If any resident of a state correctional facility is in need of hospital treatment for a primary diagnosis of mental illness [or substance abuse], the director of corrections or the officer in charge of the correctional facility may file with the director of health an application for the transfer of the resident to the state hospital, together with the certificate of a psychiatrist or psychologist employed by the department of health showing the need for such hospital treatment, and, upon approval of the application by the director of health, the official having custody of the resident shall transfer the resident to the state hospital for care and treatment. The official effecting the transfer of the resident shall keep the administrator of the state hospital informed of the maximum period of commitment of the resident to the director of corrections, and, if the continued hospitalization of the resident beyond the expiration of the period is deemed necessary, the administrator of the state hospital shall institute the admission procedures required to detain the resident as a patient notwithstanding the resident's release from the state correctional facility; provided that a judicial hearing pursuant to sections 334-60.2 to 334-60.7 be held by the same circuit court that sentenced such resident. In the event that discharge from the hospital occurs before the expiration of the maximum period of commitment or confinement, the resident shall be returned to the appropriate state correctional facility. As used in this section, “resident” means any person serving a sentence in a state correctional facility or any child or minor detained in a state correctional facility.”

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

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

(Approved April 20, 1988.)

A Bill for an Act Relating to Housing.

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

SECTION 1. **Findings and purpose.** The legislature finds that there exists a critical shortage of safe, sanitary and affordable housing units in the State and that the legislature must quickly eliminate or reduce that critical shortage by using temporary, but courageous and novel legislation designed to rapidly increase the inventory of affordable housing units, and to do so in the most expeditious and economical way with a high degree of flexibility given to the developer in developing real property for affordable housing.

The legislature finds that legislation designed to increase the development of affordable housing units to reduce or eliminate this critical shortage, must also be designed to maintain an economically stable affordable housing environment, to protect against the destructive effects of speculation on affordability of housing, and to help private developers develop affordable housing units, without overly intrusive and time-consuming regulations.

The purpose of this Act is therefore to institute a five year moratorium on certain provisions of Part III of Chapter 201E which relate to the development of housing projects, to establish temporary legislation to reduce and eliminate the critical shortage of affordable housing, create and maintain stable housing devel-

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opment costs, prevent speculation on affordable housing units, and provide the housing finance and development corporation with sufficient flexibility to develop affordable housing units on its own behalf or in concert with eligible developers within a self regulatory environment, without sacrificing health, safety, environmental and shoreline management requirements.

SECTION 2. Moratorium; automatic repeal. (a) Sections 201E-201, 201E-210, 201E-212, and all provisions in Part III, of Chapter 201E which are in conflict with or which are inconsistent with the provisions and intent of this Act shall not be applicable or otherwise enforceable for a period of five years from the effective date of this Act.

(b) This Act shall be automatically repealed five years from the effective date of this Act.

SECTION 3. Other provisions, applicability. The provisions of Chapter 201E, which are not in conflict with or otherwise inconsistent with the provisions with this Act shall continue to be applicable and enforceable, and this Act shall be applicable and enforceable under the provisions of Chapter 201E which are not in conflict with or which are not inconsistent with the intent and provisions of this Act.

SECTION 4. Powers and duties, generally. (a) The corporation, as defined in Section 201E-2, may develop fee simple or leasehold property, construct dwelling units thereon, including condominiums, planned units and cluster developments, and sell, lease, or rent or cause to be leased or rented, at the lowest possible price to qualified residents of the State, with an eligible developer or in its own behalf, either:

- (1) Fully completed dwelling units with the appropriate interest in the land on which the dwelling unit is located; or
- (2) Units which are substantially complete and habitable with the appropriate interest in the land on which the dwelling unit is located; or
- (3) The land with site improvements (other than the dwelling unit) either partially or fully developed.

(b) The corporation shall require all applicants for the purchase of dwelling units to make application therefor under oath, and may require additional testimony or evidence under oath in connection with any application. The determination of any applicant's eligibility under this chapter by the corporation shall be conclusive as to all persons thereafter dealing with the property; but the making of any false statement knowingly by the applicant or other person to the corporation in connection with any application shall constitute perjury and be punishable as such. The corporation shall establish a system to determine preferences by lot in the event that it receives more qualified applications than it has units available.

(c) The corporation shall adopt upon direction from the governor and for such period as the governor shall authorize, rules on health, safety, building, planning, zoning, and land use which relate to the development, subdivision, and construction of dwelling units in projects in which the State, through the corporation, shall participate; provided that these rules shall not contravene any safety standards or tariffs approved by the public utilities commission; provided further that these rules shall follow existing law as closely as is consistent with the production of lower cost housing with standards which meet minimum requirements of good design, pleasant amenities, health, safety, and coordinated development.

Upon the adoption of such rules they shall have the force and effect of law and shall supersede, for all projects in which the State through the corporation shall participate, all other inconsistent laws, ordinances, and rules relating to the use,

zoning, planning, and development of land, and the construction of dwelling units thereon.

(d) The corporation may acquire, by eminent domain, exchange, or negotiation, land or property required within the foreseeable future for the purposes of this Act. Whenever land with a completed or substantially complete and habitable dwelling or dwellings thereon is acquired by exchange or negotiation, the exchange value or purchase price for each such dwelling, including land, shall not exceed its appraised value. Land or property acquired in anticipation of future use may be leased for the interim period by the corporation for such term and rent as it deems appropriate.

(e) Upon authorization by the legislature, the corporation shall cause the State to issue general obligation bonds to finance:

- (1) Land acquisition;
- (2) The development and improvement of land;
- (3) The construction of dwelling units;
- (4) The purchase, lease or rental of land and dwelling units by qualified residents under this Act;
- (5) Payment of any services contracted for under this Act, including profit or recompense paid to partners, and including community information and advocacy services deemed necessary by the corporation to provide for citizen participation in the development of housing projects, the implementation of this Act, and the staffing of any citizen advisory committee the corporation may establish;
- (6) The cost of repurchase of units under section 201E-221;
- (7) Loans for the rehabilitation and renovation of existing housing; and
- (8) Any other moneys required to accomplish the purposes of this Act.

(f) Do all things necessary and convenient to carry out the purposes of this Act.

SECTION 5. Housing development; exemption from statutes, ordinances, charter provisions, rules; plans and specifications; boundary change.

(a) The corporation may develop on behalf of the State or with an eligible developer, or may assist under a government assistance program in the development of housing projects which shall be exempt from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to planning, zoning, construction standards for subdivisions, development and improvement of land, and the construction of units thereon; provided that:

- (1) The corporation finds the project is consistent with the purpose and intent of this Act, and meets minimum requirements of health and safety;
- (2) The development of the proposed project does not contravene any safety standards or tariffs approved by the public utilities commission for public utilities; and
- (3) The corporation shall have first conducted a public hearing after reasonable notice in the county in which the project is situated. The notice shall include a description of the proposed project.

(b) The final plans and specifications for the project which are consistent with the purpose and intent of this Act and which meets minimum requirements of health and safety shall constitute the zoning, building, construction, and subdivision standards for that project. For purposes of section 501-85 and 502-17, the executive director of the corporation may certify maps and plans of lands connected with the project as having complied with applicable laws and ordinances relating to consolidation and subdivision of lands, and such maps and plans shall be accepted for registration or recordation by the land court and registrar.

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(c) The land use commission shall approve or disapprove a boundary change within forty-five days after the corporation has submitted a petition to the commission as provided in section 205-4. If on the forty-sixth day the petition is not disapproved, it shall be deemed approved by the commission.

(d) For the purposes of this section, "government assistance program" means a housing program qualified by the corporation and administered or operated by the corporation or the United States or any of their political subdivisions, agencies, or instrumentalities, corporate or otherwise.

SECTION 6. Independent development of projects. (a) In any county, the corporation may enter into agreements for housing projects with an eligible developer if in the corporation's reasonable judgment a project is primarily designed for lower income housing. The agreement may provide for the housing to be placed under the control of the corporation, or to be sold by the corporation or to be sold to the corporation as soon as the units are completed and shall contain such terms, conditions, and covenants as the corporation, by rules deems appropriate, and every agreement shall provide for the developer to furnish a performance bond, in favor of the corporation, assuring the timely and complete performance of the housing project. Sureties on the bond must be satisfactory to the corporation.

(b) The plans and specifications for the project shall:

(1) Provide for economically integrated housing by stipulation and design; provided that not less than sixty per cent of the units shall be sold in price ranges established by the corporation under this chapter and chapter 91 as being within the purchasing power of lower income purchasers and the balance of the units to be sold at these or other prices; provided further that the variously priced units shall not be segregated and shall be randomly dispersed individually or in clusters throughout the project horizontally, and if applicable, vertically;

(2) Provide for the sale of all units in fee simple or in leasehold either to the corporation or to the purchaser and in all cases subject to all of the provisions of sections 201E-221, 201E-222, and 201E-223; excepting units sold at market price; and

(3) Encompass the use of lands adequately suited to the size, design, and types of occupancies designated in subsection (a), properly located for occupancy by the groups for which the development is designed under this section, properly districted for the use intended prior to this application, and appropriately zoned within an urban land use district, or appropriate in its situation and surroundings for more intensive or denser zoning.

(c) The corporation may accept and approve projects independently initiated by private developers which fully comply with subsections (a) and (b). The corporation may review the plans, specifications, districting, and zoning of the project for the purpose of exempting the project from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to zoning and construction standards for subdivisions, development, and improvement of land and the construction, improvement, and sale of homes thereon; provided that the procedures in Section 5(a)(1), (2), and (3) have been satisfied.

SECTION 7. Compliance with environmental and shoreline protection laws required. The corporation shall not be exempt from compliance with Chapters 343, and 205A, which are intended to maintain and protect the quality of the environment and shorelines.

SECTION 8. Rules. The corporation, which shall adopt rules pursuant to Chapter 91 necessary for the purposes of this Act, shall, in addition to the require-

ments contained in Chapter 91, give to the legislative body of the county in which the project is to be situated not less than forty-five days written notice of the public hearing, such notice to include the proposed rule to be adopted by the corporation.

SECTION 10.¹ Effective date. This Act shall take effect upon its approval.

(Approved April 20, 1988.)

Note

1. So in original.

ACT 16

H.B. NO. 3159

A Bill for an Act Relating to Corporations.

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

SECTION 1. Section 415-79, Hawaii Revised Statutes, is amended to read as follows:

"§415-79 Sale of assets other than in regular course of business. (a) A sale, lease, exchange, or other disposition of all or substantially all of the property and assets, with or without the good will of a corporation, if not in the usual and regular course of its business, may be made upon such terms and conditions and for such consideration, which may consist in whole or in part of cash or other property, including shares, obligations, or other securities of any other corporation, domestic or foreign, as may be authorized in the following manner:

- (1) The board of directors shall adopt a resolution recommending the sale, lease, exchange, or other disposition and directing the submission thereof to a vote at a meeting of shareholders, which may be either an annual or a special meeting;
- (2) Written notice shall be given to each shareholder of record, whether or not entitled to vote at the meeting, not less than twenty days before the meeting, in the manner provided in this chapter for the giving of notice of meetings of shareholders and, whether the meeting be an annual or a special meeting, shall state that the purpose, or one of the purposes is to consider the proposed sale, lease, exchange, or other disposition;
- (3) With respect to corporations incorporated on or after July 1, 1987, at such meeting the shareholders may authorize the sale, lease, exchange, or other disposition and may fix, or may authorize the board of directors to fix, any or all of the terms and conditions thereof and the consideration to be received by the corporation therefor. The authorization shall require the affirmative vote of the holders of a majority of the shares of the corporation entitled to vote thereon, unless any class of shares is entitled to vote thereon as a class, in which event the authorization shall require the affirmative vote of the holders of a majority of the shares of each class of shares entitled to vote as a class thereon and of the total shares entitled to vote thereon;
- (4) With respect to corporations incorporated before July 1, 1987, at such meeting the shareholders may authorize the sale, lease, exchange, or other disposition and may fix, or may authorize the board of directors to fix, any or all of the terms and conditions thereof and the consideration to be received by the corporation therefor. The authorization

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shall require the affirmative vote of the holders of three-fourths of the shares of the corporation entitled to vote thereon, unless any class of shares is entitled to vote thereon as a class, in which event the authorization shall require the affirmative vote of the holders of three-fourths of the shares of each class of shares entitled to vote as a class thereon and of the total shares entitled to vote thereon. The articles of incorporation may be amended by the vote set forth in the preceding sentence to provide for a lesser proportion of shares, or of any class or series thereof, than is provided in the preceding sentence, in which case the articles of incorporation shall control, provided that said lesser proportion shall not be less than the proportion set forth in paragraph (3) of this section; and

- (5) After the authorization by a vote of shareholders, the board of directors nevertheless, in its discretion, may abandon the sale, lease, exchange, or other disposition of assets, subject to the rights of third parties under any contracts relating thereto, without further action or approval by shareholders.

(b) A sale, lease, exchange, or other disposition of the property and assets of a corporation shall not be deemed to be the sale, lease, exchange, or other disposition of all or substantially all the property and assets of the corporation if the corporation is retaining sufficient property and assets to continue one or more significant business segments or lines of the corporation after the sale, lease, exchange or other disposition. Furthermore, the business segments or lines retained must not be only temporary operations or merely a pretext to avoid shareholders' rights which might otherwise arise under this chapter."

SECTION 2. New statutory material is underscored.

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

(Approved April 20, 1988.)

ACT 17

S.B. NO. 2815

A Bill for an Act Relating to Adult Education Program.

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

SECTION 1. Part I of chapter 301, Hawaii Revised Statutes, is amended to read as follows:

"PART I. ADULT AND COMMUNITY EDUCATION

§301-1 Adult and community education authorized. To provide increased opportunity for the people of Hawaii, the department of education shall establish and regulate a program of adult and community education of less than college grade to be conducted, wherever feasible, in public school buildings, and to use public school equipment[,] under conditions determined by the department, when such equipment is needed.

§301-2 Scope of adult and community education [courses] programs offered. As rapidly as [facilities] resources are available and interest is developed, [courses] instructional programs shall be initiated in the following fields:

- (1) Basic elementary education. A foundation program in reading and

- speaking English, writing, and arithmetic for persons with no schooling or only primary grade training;
- (2) Advanced elementary education. A program in advanced elementary education for those persons who have completed four to eight years of schooling and who desire to obtain more complete mastery of the fundamentals;
 - (3) Secondary education. A program of secondary education for those adults who, in youth, left school or for some reason had their education curtailed and who now desire to continue their education; for those youths who have been excepted from compulsory attendance under section 298-9; and for those youths who are in need of courses to complete their high school graduation requirements;
 - (4) Adult literacy education. A basic program in reading and writing English, and arithmetic for persons who need to develop or improve their mastery of basic literacy skills in these areas for purposes of enhancing their personal, social, or employment lives.
 - [4] (5) Homemaking and parent education. A program in homemaking and parent education for all those parents and other adults who desire training in family life, including child care, nursing, budgeting, and other instruction basic to homemaking;
 - [5] (6) [Civic training.] Community education. A program [of] to facilitate understanding and enlightenment in civic duties, responsibilities, and obligations for all persons who desire to keep pace with today's community, national, and world developments and who realize the necessity of continuing study for the adequate fulfillment of their civic functions; community education addresses responsibilities within a given community, especially concerns related to education and the schools, and offers additional services to supplement and enrich the educational program of in-school children and youths;
 - [6] (7) Naturalization training. The standard course of training provided by the United States Immigration and Naturalization Service which shall be provided to all those who have filed applications for United States citizenship and desire to enroll in such a course under the supervision of the [adult education division;] department of education;
 - [7] (8) Cultural opportunities. A program of adult and community education that will meet the interests and desires of those people who wish to enrich and to broaden their cultural, recreational, and social interests.

§301-3 Advisory council for adult and community education. The [department] board of education shall appoint an advisory council for adult and community education composed of fifteen or more representatives of industry, labor, civic organizations, and education. Appointments shall be for a term of two years with reappointments optional but not to exceed a total of six years on the advisory council.

§301-4 Financing adult and community education program. The financial support for this program shall be in part from fees collected from students enrolled, and in part [out of] from public funds appropriated for this purpose. Fees shall be set in accordance with the recommendations of the advisory council, and may be collected from students regularly enrolled; provided that:

- (1) Adults registered with the department of labor and industrial relations and unemployed shall be granted free enrollment in such courses as will tend to assist such persons in securing employment;

ACT 18

- (2) Adults certified by the department of human services as indigent may be enrolled on a nonfee basis in classes that will tend to assist such persons in becoming self-sustaining;
- (3) Discharged veterans who are entitled to federal educational assistance shall be enrolled upon authorization of the Veterans Administration and fees shall be charged against federal funds in accordance with Veterans Administration contract regulations;
- (4) Administrative and supervisory costs, costs of instruction, and all other necessary expenses not covered by fees and other authorized charges shall be paid for out of funds appropriated for this purpose."

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

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

(Approved April 25, 1988.)

ACT 18

S.B. NO. 2816

A Bill for an Act Relating to School Attendance.

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

SECTION 1. Section 298-11, Hawaii Revised Statutes, is amended to read as follows:

"§298-11 Exclusion from school. If for any reason a child becomes a detriment to the morals or discipline of any school, the child may be precluded from attending school by the principal with the approval of the district superintendent. The department of education shall seek the active participation of other public and private agencies in providing help to such children before and after they have left school. An appeal may be taken on behalf of the child to the superintendent of education within ten days from the date of such action.

No child who is seventeen years of age or over shall be admitted to the ninth grade of a public four-year high school, and no child who is eighteen years of age or over shall be admitted to the tenth grade of a public senior high school, except upon the written permission of the superintendent when in the superintendent's opinion the facts warrant such admission.

[Any high school student whose work is below passing in half or more of the student's subjects shall be placed on probation and, if the student's work does not improve to the satisfaction of the superintendent during the subsequent semester, the student shall be precluded from attending school. Such student may be reinstated by the superintendent if, in the superintendent's opinion, the facts warrant such reinstatement.]'

SECTION 2. Statutory material to be repealed is bracketed.

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

(Approved April 25, 1988.)

ACT 19

S.B. NO. 2817

A Bill for an Act Relating to School District Advisory Councils.

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

SECTION 1. Section 296-8, Hawaii Revised Statutes, is amended to read as follows:

“§296-8 Eligibility; expenses. [Each] Notwithstanding the provisions set forth in section 78-1(b), each councilor appointed by the governor [shall be a registered voter of the councilor’s school board district and a resident of] need only reside in the school district in which the councilor is appointed to serve. No councilor shall hold any other public office under the state or county governments. The term “public office”, for the purposes of this section, shall not include notaries public, reserve police officers, officers of emergency organizations for civilian defense or disaster relief or county charter commissions.

Councilors shall serve without pay but shall be reimbursed for necessary expenses while attending meetings and while in the discharge of their responsibilities. Payments for expenses shall be made by warrants signed by the [chairman] chairperson of the school district advisory council.”

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

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

(Approved April 25, 1988.)

ACT 20

S.B. NO. 2041

A Bill for an Act Relating to Mattresses.

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

SECTION 1. The legislature finds that the federal Textile Fiber Products Identification Act regulates certain textile fiber products, such as clothing, furnishings, and beddings, by requiring that: (1) they be labelled, tagged, or stamped with information regarding the fiber content of the material used in those items; and (2) mattresses, cushions, and upholstered products containing reused stuffing be labelled as having that type of material. The legislature further finds that chapter 332, Hawaii Revised Statutes, which regulates mattresses, contains provisions which conflict in certain respects with the federal law. The purpose of this Act is to amend the state law to eliminate those conflicts.

SECTION 2. Section 332-1, Hawaii Revised Statutes, is amended to read as follows:

“§332-1 Definition. The term “mattress” as used in this chapter means any quilted pad, comforter, mattress, mattress-pad, bunk quilt, or cushion, stuffed or filled with wool, hair, or other soft material to be used on a couch or other bed [for sleeping or reclining purposes.] and on which persons sleep or recline; provided that:

- (1) The term “mattress” shall not include any items considered “beddings” under the federal Textile Fiber Products Identification Act (15 U.S.C. §70 et seq.); and

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- (2) A "cushion" includes only those that are filled with rubber, feathers, or down."

SECTION 3. Section 332-5, Hawaii Revised Statutes, is amended to read as follows:

"§332-5 Tag or stamp. Any mattress made from more than one new material shall have stamped upon the tag attached thereto the percentage of each material so used. This requirement shall not apply to comforters. [Any mattress made from any material of which prior use has been made shall have stamped or printed upon the tag attached thereto, in type not smaller than twenty-point, the words "second-hand material".] Any mattress made from material known as "shoddy" shall have stamped or printed upon the tag attached thereto, in type not smaller than twenty-point, the words "shoddy material"."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved April 25, 1988.)

ACT 21

S.B. NO. 2190

A Bill for an Act Relating to Motor Vehicle Insurance.

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

SECTION 1. Act 347, Session Laws of Hawaii 1987, is amended by adding a new section to part III, article 10C of chapter 431, to read as follows:

"§431:10C- Right to reimbursement of deductible paid; when. If an insured is involved in an accident with an uninsured motorist and the insured paid a deductible amount for damages incurred in that accident, and if the insurer recovers any money from the uninsured motorist, the insurer shall reimburse the insured, provided that:

- (1) The amount recovered shall be divided equally between the insured and the insurer;
- (2) The amount of the insured's reimbursement shall not exceed the deductible paid; and
- (3) If the amount of damages exceeds \$2,500, the insurer shall:
 - (A) Pay the full amount of the deductible to the insured; or
 - (B) Initiate proceedings against the uninsured motorist to recover damages.'

SECTION 2. New statutory material is underscored.¹

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

(Approved April 25, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 22

S.B. NO. 2756

A Bill for an Act Relating to Agricultural Parks.

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

SECTION 1. Section 166-5, Hawaii Revised Statutes, is amended to read as follows:

"[§166-5] Joint ventures. Any agricultural park developed by the State in partnership with a federal agency, a county, or a private party shall be subject to a partnership agreement executed by the chairperson of the board of agriculture, which agreement shall provide, at a minimum:

- (1) A determination by the board that it is in the public interest to enter into the partnership agreement;
- (2) Long-term assurance that the land will be utilized for agricultural or aquacultural purposes;
- (3) State approval of the agricultural park development plans and specifications;
- (4) State review of selection and management of lessees;
- (5) Conditions to ensure a public benefit from any state funds expended for the project."

SECTION 2. Section 166-6, Hawaii Revised Statutes, is amended to read as follows:

"[§166-6] Disposition. Any provision of this chapter to the contrary notwithstanding, the board may directly dispose of public lands set aside and designated for use as agricultural parks, by negotiation, drawing of lot, or public auction; provided that a reasonable portion of such disposition may be to farmers who qualify under the new farmer program pursuant to section 155-1(3). All such dispositions shall be by lease only and shall be subject to the requirements set forth in rules adopted by the board in conformance to section 166-9, and subject also to the following limitations:

- (1) The property shall be disposed of for agricultural or aquacultural purposes only;
- (2) The lessee shall derive the major portion of the lessee's total annual income from the lessee's activities on the premises; provided that this restriction shall not apply if failure to meet the restriction results from mental or physical disability or the loss of a spouse, or if the premises are fully utilized in the production of crops or products for which the disposition was granted;
- (3) The lessee shall comply with all federal and state laws regarding environmental quality control;
- (4) The board shall determine the specific uses for which the disposition is intended; parcel the land into minimum size economic units sufficient for the intended uses; make, or require the lessee to make, such improvements as are required to achieve the intended uses; set the upset price or lease rent based upon fair market value for the intended use of a lot; set the term of the lease, which shall be not less than fifteen years nor more than fifty-five years, including any extension granted for mortgage lending or guarantee purposes; and establish such other terms and conditions as it may deem necessary, including[,] but not limited to[,] restrictions against alienation and provisions for withdrawal by the board;

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- (5) No lease shall be made to any person who is in arrears in the payment of taxes, rents, or other obligations owing the State or any of its political subdivisions[.]; and
- (6) Any transferee, assignee, or sublessee of an agricultural park lease shall first qualify as an applicant under this chapter.

The violation of any provision contained [herein] in this section shall be sufficient cause for the board, after due notice of breach or default as provided in rules adopted by the board in conformance [to] with section 166-9, to cancel the lease and take possession of the land.”

SECTION 3. Section 166-7, Hawaii Revised Statutes, is amended to read as follows:

“[[§166-7]] Applicants. A person, including an agricultural cooperative organized under chapter 421 at least seventy-five per cent of the members of which qualify individually, shall be eligible to apply for an agricultural park lease if that person meets the qualifications for bona fide farmer as set forth in section 171-68(a) and (c), or for a new farmer who meets the qualifications of the new farmer program as set forth in section 155-1(3), or for a qualified aquaculturalist as set forth in section 219-2, and as further provided in rules adopted by the board in conformance [to] with section 166-9.”

SECTION 4. Section 166-8, Hawaii Revised Statutes, is amended to read as follows:

“[[§166-8]] Preference right. [A displaced farmer] Any person who is otherwise qualified to take [a farm] an agricultural park lot, who is a veteran with an honorable discharge, or who qualifies as a displaced farmer, or [any farmer whose farm is] who operates a farm located in a zoning district where such use is a nonconforming use, or [any farmer] who qualifies under the new farmer program pursuant to section 155-1(3), shall be given preference in obtaining an agricultural park lot.”

SECTION 5. Section 166-9, Hawaii Revised Statutes, is amended to read as follows:

“[[§166-9]] Rules. The board shall adopt rules in accordance with chapter 91 in order to effectuate the purposes of this chapter. Such rules shall provide, without limitation, for definitions; planning generally and for intensive agricultural uses; general eligibility requirements; qualifications of applicants; preference rights; disposition of leases; lease provisions; lease restrictions generally and for intensive agricultural uses; and notice of breach or default. Rules adopted by the board for the [purpose] purposes of this chapter shall be consistent with sections 155-1, 155-10, 171-11, 171-20, 171-33, 171-34, 171-35, 171-36, 171-37, 171-65, 171-66, 171-67, 171-68, and 171-69.”

SECTION 6. Section 171-11, Hawaii Revised Statutes, is amended to read as follows:

“[[§171-11]] Public purposes, lands set aside by the governor; management. The governor may, with the prior approval of the board of land and natural resources, set aside public lands to any department or agency of the State, the city and county, county, or other political subdivisions of the State for public use or purpose. All withdrawals of the lands or portions thereof so set aside shall be made by the governor.

Any public lands set aside by the governor prior to the enactment of this

chapter, or any public lands set aside by the governor of the territory of Hawaii, shall be subject to the provisions of this section.

Lands while so set aside for such use or purpose or when acquired for roads and streets shall be managed by the department, agency, city and county, county, or other political subdivisions of the State having jurisdiction thereof, unless otherwise provided by law. Such department, agency of the State, the city and county, county, or other political subdivisions of the State in managing such lands shall be authorized to exercise all of the powers vested in the board in regard to the issuance of leases, easements, licenses, revocable permits, concessions, or rights of entry covering such lands for such use as may be consistent with the purposes for which the lands were set aside on the same terms, conditions, and restrictions applicable to the disposition of public lands, as provided by this chapter all such dispositions being subject to the prior approval of the board; provided that any nonrenewable dispositions granting rights for a period not in excess of fourteen days shall not require (1) the approval of the board or (2) public auction or public advertisement for sealed tenders[.]; and provided further that disposition of lands set aside for use as agricultural parks pursuant to chapter 166 shall not be subject to the prior approval of the board. If at the time of the disposition of any such leases the board shall have approved the same, any order withdrawing or setting aside any or all of such lands for any other public purpose shall be made subject to such leases. Subject to section 5(f) of the Act of March 18, 1959 (73 Stat. 6), all proceeds from such lands shall be deposited into the appropriate funds provided by law.

This section shall also apply where the purposes are the uses and purposes of the United States; provided that all revenues derived from the lands and improvements thereon shall be paid to the department of land and natural resources by the United States.

Whenever lands set aside for a public purpose to the various departments and agencies of the State, or to any city and county, county, or other political subdivisions of the State, or to the United States, are not being utilized or required for the public purpose stated, the order setting aside the lands shall be withdrawn and the lands shall be returned to the department. The governor may withdraw public lands and, with¹ prior approval of the board of land and natural resources, set aside the withdrawn lands to another department or agency of the State, the city and county, county, or political subdivision of the State, or to the United States for public use or purpose, provided that no structure on such lands shall be built, demolished or altered until after the legislative action or inaction as hereinbelow provided.

The power granted to the governor in this section to set aside or withdraw or withdraw and set aside public lands shall be exercised subject to disapproval by the legislature by two-thirds vote of either the senate or the house of representatives or by the majority vote of both, in any regular or special session next following the date of the setting aside or withdrawal, or withdrawal and setting aside.

Whenever portions of lands set aside for a public purpose to the various departments and agencies of the State, or to any city and county, county, or other political subdivision of the State are not presently utilized or required for the public purpose stated, the board shall have the power, without withdrawing the order setting aside the lands, to dispose of any and all real property interest less than the fee in the portions of such lands where the disposition is for a use which is consistent or inconsistent with the purpose for which the land was set aside. All funds derived from disposition by the board shall be deposited in the general fund of the State or be paid to the appropriate account; provided that all such dispositions shall be with the prior written approval of the department, agency, city and county, county, or other political subdivisions of the State and the governor, and shall be undertaken in compliance with all other applicable sections of this chapter."

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

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

(Approved April 25, 1988.)

Note

1. Prior to amendment, "the" appeared here.

ACT 23

S.B. NO. 3207

A Bill for an Act Relating to Health.

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

SECTION 1. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§321- Prenatal health care; authority. (a) The department of health may adopt rules pursuant to chapter 91 to ensure that all pregnant women in this State are offered appropriate information, quality testing, diagnostic services, and follow-up services concerning neural tube defects and other disorders amenable to prenatal diagnosis. The purpose of prenatal screening and diagnosis is to obtain vital information for the pregnant woman and her family as well as for the providers of her health care. It can be used to provide appropriate care and to assist the woman and her family to achieve optimal health outcomes. Nothing in this section shall be construed to mean that prenatal screening and testing are mandatory.

(b) The department of health may:

- (1) Provide educational resources to all women in the State before and early in pregnancy about the availability of prenatal tests, including non-directive counseling and impartial information on the benefits, risks, and limitations of prenatal tests;
- (2) Make available prenatal screening and diagnosis tests to all pregnant women in this State who choose to be so screened;
- (3) Specify the diseases which may be screened for;
- (4) Determine screening and diagnostic test methodologies;
- (5) Establish laboratory quality control standards for performance of designated tests;
- (6) Provide technical assistance to laboratories, hospitals, physicians, and other health care providers;
- (7) Maintain a confidential registry and collect appropriate statistical data for the purposes of research and evaluation;
- (8) Collect fees for program services; and
- (9) Maintain confidentiality of records of women and their families participating in the program."

SECTION 2. New statutory material is underscored.¹

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

(Approved April 25, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 24

S.B. NO. 3227

A Bill for an Act Relating to Fishing.

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

SECTION 1. Section 188-40, Hawaii Revised Statutes is amended to read as follows:

“§188-40 Minimum sizes of fish. It shall be unlawful for any person to sell, or offer for sale, or for any peddler or dealer in fish to have in the peddler's or dealer's possession, any (1) aholehole or manini less than five inches in length, or (2) mullet, moi, weke, moana, or kumu less than seven inches in length, or (3) awa, oio, kala, or opelu kala less than nine inches in length, or (4) opakapaka, ulaula, uku, ulua or papio, uhu [slipper lobster,] or squid less than one pound in weight, or (5) [kauhonu] kuahonu crab or Kona crab less than four inches in length or in width across or along its back, or (6) clams less than one and one-half inches measured the long way.”

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

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

(Approved April 25, 1988.)

ACT 25

S.B. NO. 2890

A Bill for an Act Relating to Milk Control.

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

SECTION 1. Section 157-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

“Shortage” means that no milk is utilized for Class II purposes.”

SECTION 2. Section 157-15, Hawaii Revised Statutes, is amended to read as follows:

“§157-15 Audit of books and accounts. The board of agriculture may examine and audit the books and accounts of licensed producers, producer-distributors and distributors for the purpose of determining how payments to producers and producer-distributors are computed, whether the amounts of the payments are fair, or whether any provisions of this chapter affecting such payments, directly or indirectly, have been or are being violated. The board may also examine and audit the costs of the production, handling, processing, distribution and marketing of milk as they may affect such payments, directly or indirectly. The board shall conduct an independent monthly audit with Federal Milk Marketing Order specifications which examines and verifies milk utilization by the processing plants and is immediately released upon completion.”

SECTION 3. Section 157-23, Hawaii Revised Statutes, is amended to read as follows:

“§157-23 License fees. In order to meet the expenditures necessary to administer this chapter, the board of agriculture shall establish license fees to be

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paid by producers, producer-distributors and distributors. In determining these fees, the board shall, at least thirty days before the new license year begins:

- (1) Project the reasonable expenditures necessary to administer the chapter for the license year;
- (2) Project the amount to be paid by applicants for original or renewal licenses for the license year;
- (3) Project the reasonable expenditures necessary to conduct an independent monthly audit;
- [(3)] (4) Estimate the total volume of milk to be produced and processed for the license year;
- [(4)] (5) Using (1), (2), [and] (3), and (4) above, establish a reasonable rate per hundred-weight or other unit as determined by the board; and
- [(5)] (6) Collect such fees monthly, or at such other intervals as may be determined by the board, during the license year based on actual milk produced and processed.

To facilitate the collection of license fees, the board may require a producer-distributor or distributor to withhold from any payment owing to any producer a part or all of the license fee due under this chapter by such producer. For any such withholding required by the board, the producer-distributor or distributor shall be paid a reasonable fee by the board. The amount of the fee shall be set by the board. An agricultural cooperative all of whose producer-members have complied with the licensing provisions of this chapter shall be exempt from the payment of the license fee."

SECTION 4. Chapter 157, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§157- Milk shortage. In the event of a shortage, the board shall require all milk produced within the milk shed first serve the needs of the consumers within the milk shed."

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 6. This Act shall take effect upon its approval.

(Approved April 26, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 26

S.B. NO. 2319

A Bill for an Act Relating to Public Money and Public Contracts.

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

SECTION 1. Section 103-28, Hawaii Revised Statutes, is amended to read as follows:

"§103-28 Deposits of legal tender, etc., to accompany bid. All bids shall be accompanied by a deposit of legal tender or by a certificate of deposit, cashier's check, or certified check on a bank that is insured by the Federal Deposit Insurance Corporation, or on a savings institution insured by the Federal Savings and Loan Insurance Corporation, or by a share certificate issued by a credit union insured by

the National Credit Union Administration, in a sum not less than five per cent of the amount bid, payable at sight or unconditionally assigned to the officer advertising for tenders; provided that when the amount bid exceeds \$50,000, the legal tender, certificate of deposit, share certificate, cashier's check, or certified check shall be in a sum not less than \$2,500, plus two per cent of the amount in excess of \$50,000. Notwithstanding the foregoing, in solicitations for price-term, open-end, and requirements contracts a maximum deposit of \$2,500 shall apply; provided that a standing deposit of \$2,500 may be furnished to the comptroller and held by the comptroller for a period convenient to the bidder. During the period held by the comptroller, the standing deposit shall be sufficient for all bids submitted by the bidder for price-term, open-end, or requirements contracts. A certificate of deposit, share certificate, cashier's check, or certified check may be utilized only to a maximum of \$100,000.

A bid deposit for a bid requiring a deposit in excess of \$100,000 shall be in the form of legal tender or a surety bond conforming to the requirements of section 103-31."

SECTION 2. Section 103-30, Hawaii Revised Statutes, is amended to read as follows:

"**§103-30 Forfeiture of deposits, etc.; return thereof.** If the bidder to whom the contract is awarded fails or neglects to enter into the contract and furnish satisfactory security, as required by sections 103-34 to 103-37 within ten days after the award or within [such further] the time as the officer awarding the contract may allow, the officer shall pay the amount of the deposit into the treasury as a realization of the State, county, or other governmental agency, as the case may be. Deposit forfeiture for price-term, open-end, and requirements contracts shall be for five per cent of the amount bid, up to a maximum of \$2,500 regardless of the amount bid. If the contract is entered into and the security furnished within the required time, the deposit, certificate, or check shall be returned to the successful bidder. The deposits made by the unsuccessful bidders shall be returned to them after the contract is entered into or, if the contract is not awarded or entered into, after the officer's determination to publish another call for tenders[.]; provided that inactive standing deposits shall be retained or returned at the option of the bidder."

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

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

(Approved April 28, 1988.)

ACT 27

S.B. NO. 2328

A Bill for an Act Relating to Deposits of Public Funds.

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

SECTION 1. Section 38-1, Hawaii Revised Statutes, is amended to read as follows:

"**§38-1 Definitions.** As used in this chapter, unless the context otherwise indicate:

Comptroller means the state comptroller.

Depository includes any federally insured national or state bank, [or] savings

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and loan association, or industrial loan company; [insured by the federal savings and loan insurance corporation] or federal or state credit union insured by the national credit union administration authorized to do business in this State.

Director means the state director of finance."

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

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

(Approved April 28, 1988.)

ACT 28

H.B. NO. 3501

A Bill for an Act Relating to the Issuance of Bonds by the State.

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

SECTION 1. The legislature hereby finds and determines:

- (1) The various statutes governing the issuance and sale of general obligation bonds and revenue bonds by the State were originally enacted prior to statehood and have been amended from time to time in order to facilitate particular objectives;
- (2) There have been many innovations in financing techniques since the original enactment of the various statutes governing the issuance and sale of general obligation bonds and revenue bonds by the State; and
- (3) It is in the best interest of the State and the residents thereof that the statutory provisions governing the issuance and sale of general obligation bonds and revenue bonds by the State, provide the State maximum flexibility in the issuance and sale of those bonds and further provide procedures to permit the policy with respect to the issuance and sale of those bonds by the State to be more efficiently and effectively applied.

SECTION 2. Parts I, II, III, and VII of chapter 39, Hawaii Revised Statutes, are hereby repealed.

SECTION 3. Chapter 39, Hawaii Revised Statutes, is amended by adding three new parts to read as follows:

"PART I. GENERAL OBLIGATION BONDS

§39-1 Authorization to issue; amount. The director of finance of the State, with the approval of the governor, may issue from time to time general obligation bonds of the State, to an amount not exceeding the total amount of those bonds authorized to be issued by acts of the legislature and any amendments thereto in effect at the date of issue of the bonds, and not exceeding the debt limitations prescribed by the Constitution of the State of Hawaii. Except as otherwise specifically provided in the act or acts authorizing the issuance thereof, the bonds shall be issued in the manner and upon the terms provided in this part.

§39-2 Application of proceeds. The proceeds of bonds so issued shall be exclusively devoted to the purpose or purposes defined and expressed in the acts of the legislature authorizing the issuance of bonds, and the proceeds shall be devoted to such purposes in such order as the governor may determine. The governor may allot the proceeds of any issue of bonds to a particular purpose or to several

purposes. The proceeds of any issue of bonds may be allotted to various purposes irrespective of whether or not the purposes have all been provided for by the same legislative act and an allotment may be made of only a portion of the proceeds authorized for a particular purpose. The governor may amend the governor's allotments from time to time. The purpose or purposes of issuance need not be stated in any bond.

§39-3 Allotments; appropriations. Whenever the issuance of bonds has been authorized by an act of the legislature, the bonds may be issued, sold, and delivered prior to or after any allotments have been made by the governor for the purposes to be financed by the issuance of the bonds. If any appropriation or any expenditure under an appropriation made in an act of the legislature is conditioned, qualified, or dependent as to effectiveness or amount or otherwise upon the performance, happening, or existence of any act, occurrence, or event, bonds authorized by an act or acts of the legislature to finance all or a portion of such an appropriation may be issued prior to or after the time when all or any part of the appropriation becomes effective or the expenditure can be made and prior to or after the performance, happening, or existence of the act, occurrence, or event; provided however that the proceeds of the bonds may not be applied to any purpose or project requiring an allotment by operation of law until an allotment has been made, or be applied to any appropriation or any expenditure under an appropriation which has been conditioned, qualified, or made dependent as to effectiveness or amount or otherwise upon the performance, happening, or existence of any act, occurrence, or event until the appropriation becomes effective or the expenditure can be made, or be applied to any appropriation or any expenditure under an appropriation in excess of the amount of the appropriation or prior to the time when the appropriation becomes effective. The provisions of this section shall not permit the issuance of bonds to finance any appropriation which has theretofore lapsed by operation of law.

§39-4 Details of bonds. All bonds issued pursuant to this part shall bear interest at such rate or rates, payable at such time or times, at a stated rate or rates; shall mature and be payable at such time or times from the date of the issue thereof as will comply with the provisions of the Constitution of the State; may be made payable as to both principal and interest at a place or places within or without the State; may be issued in coupon form without privilege of registration or registrable as to principal only or as to both principal and interest or in fully registrable form without coupons; may be made registrable at a place or places within or without the State; may be subject to redemption, to tenders for purchase or to purchase prior to their stated maturity at the option of the State, or the holder, or both.

The director of finance shall determine the date, denomination or denominations, interest payment dates, maturity date or dates, place or places and manner of payment, registration privileges and place or places of registration, redemption price or prices and time or times and terms and conditions and method of redemption, the right of the holder to tender for purchase and the price or prices and time or times and terms and conditions upon which the right might be exercised, the right to purchase and the price or prices and the time or times and terms and conditions upon which the right may be exercised and the purchase may be made, and all other details of bonds issued under this part.

The principal of and interest and premium, if any, on all bonds issued under this part shall be payable in any coin or currency of the United States of America, which at the time of payment is legal tender for public and private debts.

§39-5 Sale of bonds. (a) The director of finance may make such arrange-

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ments as may be necessary or proper for the sale of each issue of bonds or part thereof as are issued pursuant to this part, including, without limitation, arranging for the preparation and printing of the bonds, the official statement and any other documents or instruments deemed required for the issuance and sale of bonds, and retaining financial, accounting, and legal consultants, all upon such terms and conditions as the director of finance deems advisable and in the best interest of the State. The director of finance may offer the bonds at competitive sale or may negotiate the sale of the bonds to any person or group of persons, to the United States of America, or any board, agency, instrumentality, or corporation thereof, to the employees retirement system of the State, to any political subdivision of the State, or to any board, agency, instrumentality, public corporation, or other governmental organization of the State or of any political subdivision of the State.

(b) The sale of the bonds by the director of finance by negotiation shall be at such price or prices and upon such terms and conditions, and the bonds shall bear interest at such rate or rates or such varying rates determined from time to time in such manner, as the director of finance, with the approval of the governor, shall approve.

(c) The sale of the bonds by the director of finance at competitive sale shall be at such price or prices and upon such terms and conditions, and the bonds shall bear interest at such rate or rates or such varying rates determined from time to time in the manner as specified by the successful bidder, and the bonds shall be sold in accordance with this subsection. The bonds offered at competitive sale shall be sold only after published notice of sale advising prospective purchasers of the proposed sale. The bonds offered at competitive sale may be sold to the bidder offering to purchase the bonds at the lowest interest cost. For the purpose of this subsection, the lowest interest cost shall be determined on any one of the following bases as selected by the director of finance, with the approval of the governor:

- (1) The figure obtained by adding together the amounts of interest payable on the bonds from their date to their respective maturity dates at the rate or rates specified by the bidder and deducting from the sum obtained the amount of any premium offered by the bidder;
- (2) Where the interest on the bonds is payable annually, the annual interest rate (compounded annually), or, where the interest on the bonds is payable semiannually, the rate obtained by doubling the semiannual interest rate (compounded semiannually), necessary to discount the principal and interest payments on the bonds from the dates of payment thereof to the date of the bonds and to the price bid (the price bid for the purpose of this paragraph shall not include the amount of interest accrued on the bonds from their date to the date of delivery and payment); or
- (3) Where the interest on the bonds is payable other than annually or semiannually or will vary from time to time, and which, in the opinion of the director of finance, shall result in the lowest cost to the State; provided that in any case the right shall be reserved to reject any or all bids and waive any irregularity or informality in any bid.

(d) Bonds offered at competitive sale, without further action, shall bear interest at the rate or rates specified by the successful bidder or varying rates determined from time to time in the manner specified by the successful bidder with the consent of the director of finance. The notice of sale required by this section shall be published at least once and at least five days prior to the date of such sale in a newspaper published and of general circulation in the State and in a financial newspaper or newspapers published in any of the cities of New York, Chicago, or San Francisco, and shall be in such form and contain such terms and conditions as the director of finance shall determine. The notice of sale shall comply with the

requirements of this section if it merely advises prospective purchasers of the proposed sale and makes reference to a detailed notice of sale which is available to prospective purchasers and which sets forth the specific details of the bonds and terms and conditions upon which the bonds are to be offered. The notice of sale published and any detailed notice of sale may omit the date and time of sale, in which event the date and time shall be either published in the same newspapers in which the notice of sale has been published or transmitted via electronic communication systems deemed proper by the director of finance which are generally available to the financial community, in either case at least twenty-four hours prior to the time fixed for the sale.

§39-6 Premiums to general fund. The premiums received from the sale of any bonds issued pursuant to this part shall be a realization of the general fund of the State.

§39-7 Form and execution of bonds. Bonds issued pursuant to this part shall be in such form as the director of finance may determine, and shall be lithographed or steel engraved. All bonds issued pursuant to this part shall be manually signed by the director of finance or a deputy director of finance, shall bear a lithographed or engraved facsimile of the signature of the comptroller of the State, and shall be sealed with the seal or a lithographed or engraved facsimile of the seal of the department of budget and finance. In addition, fully registered bonds may be authenticated with the manual signature of the registrar, if any, thereunto duly appointed by the director of finance. Notwithstanding the preceding provisions of this section, the director of finance, with the approval of the governor, may provide that bonds issued pursuant to this part may be typewritten, printed, or otherwise reproduced, and that the signature of the comptroller upon the bonds may be the comptroller's manual signature. Interest coupons shall be executed with a lithographed or engraved facsimile of the signature of the director of finance. Pending the preparation of the definitive bonds, interim receipts, or certificates in such form and with such provisions as the director of finance may decide upon, may be issued to the purchaser or purchasers of bonds sold pursuant to this part.

§39-8 Same, signatures. When bonds of the State are prepared and signed by the director of finance or a deputy director of finance of the State and the comptroller of the State in office at the time of such signing, the signatures of the director of finance or deputy director of finance and comptroller shall be valid and sufficient for all purposes, and shall have the same effect as if the persons officially signing the bonds or whose facsimile signatures appear thereon had remained in office until the delivery of the same to the initial purchasers thereof, and in the case of fully registered bonds upon any exchange or transfer between subsequent holders thereof, notwithstanding that the term of office of those persons or any of them may have expired or they may otherwise have ceased to be officers before the delivery, exchange, or transfer. If the director of finance shall have designated a registrar for fully registered bonds, the director of finance may provide that no fully registered bond shall be valid or obligatory for any purpose unless certified or authenticated by the registrar. If the director of finance shall have provided for a registrar, then notwithstanding section 39-7, all signatures of the officers of the State upon the fully registered bonds may be facsimiles of the officers' signatures, and fully registered bonds shall be valid and sufficient only if certified or authenticated by the manual signature of an authorized officer or signatory of that registrar. Anything to the contrary notwithstanding, if blanks of fully registered bonds shall be held by a registrar pending exchange or transfer for other fully registered bonds of the same series, then upon delivery of bonds in an exchange or transfer, the

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bonds shall be valid and sufficient for all purposes notwithstanding that the signature of the comptroller and the director of finance or deputy director of finance appearing thereon shall be that of the person in office at the time of initial delivery of the bonds or that of the person in office at the time of such exchange or transfer.

§39-9 CUSIP numbers. The director of finance, in the director of finance's discretion, may provide that CUSIP identification numbers shall be imprinted on bonds issued pursuant to this part. In the event that CUSIP identification numbers are imprinted on any bonds:

- (1) No number shall constitute a part of the contract evidenced by the particular bond upon which it is imprinted; and
- (2) No liability shall attach to the State or any officer or agent thereof, including any fiscal agent, paying agent, or registrar for the bonds, by reason of the numbers or any use made thereof, including any use made by the State or any officer or agent thereof, or by reason of any inaccuracy, error, or omission.

The director of finance, in the director of finance's discretion, may require that all cost of obtaining and imprinting CUSIP identification numbers shall be paid by the purchaser of the bonds. For the purposes of this section, the term "CUSIP identification numbers" means the numbering system adopted by the Committee for Uniform Security Identification Procedures formed by the Securities Industry Association.

§39-10 Support facility for variable rate bonds. If bonds issued pursuant to this part are issued bearing interest at a rate or rates which vary from time to time and with a right of holders to tender the bonds for purchase, the director of finance, with the approval of the governor, may contract for the support facility or facilities and remarketing arrangements as are required to market the bonds to the greatest advantage of the State upon such terms and conditions as the director of finance deems necessary and proper. The director of finance may enter into contracts or agreements with the entity or entities providing a support facility; provided that any contract or agreement shall provide, in essence, that any amount due and owing by the State under the contract or agreement on an annual basis shall be subject to annual appropriation by the State and any obligation issued or arising pursuant to the terms of such contract or agreement in the form of bonds, notes, or other evidences of indebtedness shall only arise at such time as either:

- (1) Moneys or securities have been irrevocably set aside for the full payment of a like principal amount of bonds issued pursuant to this part; or
- (2) A like principal amount of the issue or series of bonds to which the support facility relates are held in escrow by the entity or entities providing the support facility.

§39-11 Bonds tax exempt; first charge on general fund. All bonds issued pursuant to this part and the income therefrom shall be exempt from all taxation by the State or any county or other political subdivision thereof, except inheritance, transfer, and estate taxes. Interest and principal payments of the bonds shall be a first charge on the general fund of the State. The full faith and credit of the State shall be and they are hereby pledged to the punctual payment of the principal thereof, and interest thereon, as the same shall become due, irrespective of whether or not the pledge be stated in the bonds, and sufficient revenues shall be raised or provided from time to time for the purpose of payment.

§39-12 Payment, principal and interest. When bonds issued pursuant to

this part and the several interest amounts mature, the director of finance shall pay the same. If the bonds or interest are made payable elsewhere than at the office of the director of finance, the director of finance shall make arrangements to provide sufficient funds at the designated place or places of payment to meet and pay all obligations at maturity in accordance with the terms thereof.

There is hereby appropriated out of the general fund of the State all amounts necessary for the payment from time to time of the principal of the bonds and the several interest amounts as they mature, and this appropriation shall be a paramount appropriation upon the general fund of the State.

§39-13 Fiscal and paying agents and registrars. The director of finance may appoint, with the approval of the governor, such fiscal agents, paying agents and registrars, within and without the State, as may be necessary and expedient to facilitate the sale, purchase, registration, transfer, exchange, and redemption of the bonds of the State and the payment of the principal thereof and interest thereon. The director of finance may authorize and empower fiscal agents and paying agents, for and on behalf of the State, to receive and receipt for moneys realized from the sale of bonds and to pay out moneys for the payment, redemption, or purchase thereof and for the payment of interest thereon, and to receive receipts for all moneys so paid out. Moneys received by the fiscal agents and paying agents from the sale of bonds on behalf of the State, for a period of fifteen days after the sale of bonds, shall not be considered as deposits within the meaning of chapter 38, and moneys placed with the fiscal agents and paying agents for the purpose of purchase or payment or redemption of bonds and coupons shall not be considered as deposits within the meaning of chapter 38. All appointments made under this section may be revoked by the director of finance at any time.

§39-14 Federal tax exempt status; preference; protection. (a) Bonds issued pursuant to this part, to the extent practicable, shall be issued to comply with requirements imposed by applicable federal law providing that the interest on the bonds shall be excluded from gross income for federal tax income purposes (except as certain minimum taxes or environmental taxes may apply). The director of finance is authorized to enter into agreements, establish funds or accounts, and take any action required in order to comply with applicable federal law. Nothing in this part or this chapter shall be deemed to prohibit the issuance of bonds, the interest on which may be included in gross income for federal income tax purposes.

(b) For the purpose of insuring that interest on bonds issued pursuant to this part which is excluded from gross income for federal income tax purposes (except as provided in subsection (a)) on the date of issuance shall continue to be so excluded, no state officer or employee, or user of a project or program shall authorize or allow any change, amendment, or modification to a project or program financed or refinanced with the proceeds of the bonds which change, amendment, or modification thereto would affect the exclusion of interest on the bonds from gross income for federal income tax purposes unless the change, amendment, or modification shall have received the prior approval of the director of finance. Failure to receive the approval of the director of finance shall render any change, amendment, or modification void.

§39-15 Bond anticipation notes. In anticipation of the issuance pursuant to this part of general obligation bonds authorized by the legislature and of the receipt of the proceeds of sale of those bonds, the director of finance, with the approval of the governor, may issue and sell general obligation bond anticipation notes for the purposes for which the bonds have been authorized, the maximum principal amount of which notes shall not exceed the authorized principal amount

of the bonds. The full faith and credit of the State shall be pledged to the payment of the principal and interest of the notes. The issuance of the notes and the details thereof shall be governed by the provisions of this part with respect to bonds insofar as the same may be applicable; provided that:

- (1) Each note, together with all renewals and extensions thereof, or refinements thereof by other notes issued pursuant to this section, shall mature within five years from the date of the original note; and
- (2) The interest on the notes shall be paid from the general fund and the principal thereof from the proceeds of sale of the bonds in anticipation of which the notes have been issued, or from any moneys in the general fund available therefor. To the extent that the principal of the notes shall be paid from moneys other than the proceeds of sale of the bonds, the maximum amount of bonds that has been authorized shall be reduced by the amount of notes paid.

§39-16 Refunding bonds authorized. (a) The director of finance, with the approval of the governor but without further authorization of the legislature, from time to time, may issue general obligation refunding bonds of the State to pay or provide for the payment of all or any part of the then outstanding bonds of the State or bonds issued by any department, board, agency, instrumentality, commission, or public corporation of the State, at or before their maturity or redemption date, and may include various series and issues of those outstanding bonds in a single issue of refunding bonds, and may include refunding bonds and bonds otherwise to be issued pursuant to this part in a single issue of bonds.

The interest rate or rates of the refunding bonds shall not be limited by the interest rate or rates borne by any of the bonds to be refunded thereby.

The refunding bonds may be issued and delivered at or at any time before the maturity or redemption date of the bonds to be refunded that the director of finance, with the approval of the governor, determines to be in the best interest of the State. The refunding bonds shall be issued in accordance with the provisions of this part with respect to bonds and all provisions of this part shall be applicable to refunding bonds.

Proceeds of the sale of the refunding bonds shall be applied solely to the payment of the principal of, and redemption premium, if any, and interest on the bonds to be refunded under the provisions of this part and to the payment of all costs of issuance of refunding bonds and interest accrued on refunding bonds to the date of delivery thereof and payment therefor.

Pending the time the proceeds derived from the sale of refunding bonds issued pursuant to this section are required for the purposes for which they were issued, the director of finance, upon authorization or approval of the governor, may invest the proceeds in obligations of, or obligations unconditionally guaranteed by, the United States of America, or in savings accounts, time deposits, or certificates of deposit of any bank or trust company within or without the State, to the extent that the savings accounts, time deposits, or certificates of deposits are collaterally secured by a pledge of obligations of, or obligations unconditionally guaranteed by, the United States of America, or in obligations of any state of the United States of America or any agency, instrumentality, or local government thereof, the provision for payment of the principal of and interest on which shall have irrevocably been made by deposit of obligations of, or obligations unconditionally guaranteed by, the United States of America. To further secure those refunding bonds the State, through the director of finance, may enter into a contract with any bank or trust company, within or without the State, with respect to the safekeeping and application of the earnings of the investment. All bonds so refunded and redeemed by the issue and sale of refunding bonds shall be canceled.

(b) The bonds which may be refunded pursuant to this section include bonds issued pursuant to this part, bonds payable or secured in whole or in part from the general fund of the State, bonds payable or secured in whole or in part by any taxes or by the taxing power of the State, and bonds which must be included when determining the power of the legislature to authorize the issuance of bonds and other evidences of indebtedness of the State. Nothing in this section shall require or be deemed to require the director of finance to elect to redeem or prepay bonds being refunded, or, if the director of finance elects to redeem or prepay any bonds, to redeem or prepay as of any particular date or dates.

However, without express authorization by the legislature, no bonds shall be issued pursuant to this part to refund bonds, notes, or other instruments of indebtedness payable solely from and secured solely by the revenues, or user taxes, of a public undertaking, improvement, or system, unless the bonds to be refunded were issued prior to November 5, 1968, and are payable from both the revenues and the user taxes of the undertaking, improvement, or system for which they were issued. In the event of the issuance of bonds pursuant to this part to refund bonds payable solely from and secured solely by the revenues or user taxes, or combination of both, of a public undertaking, improvement, or system, reimbursement shall be made to the general fund from those revenues or taxes, or combination thereof, for the payment of all of the principal of and interest on the refunding bonds.

(c) Notwithstanding any other law to the contrary, for purposes of the statements required to be prepared by part IV of chapter 39, the director of finance may determine the manner of allotting the debt service on the general obligation refunding bonds among the purposes for which the proceeds of the bonds being refunded were allotted.

§39-17 Validation of proceedings. All proceedings heretofore taken with respect to the contracting of general obligation bonded indebtedness and the issuance, sale, execution and delivery of general obligation bonds by or on behalf of this State, are hereby validated, ratified, approved, and confirmed, notwithstanding any defects or irregularities in any proceedings or in the issuance, execution, sale, or delivery, and the bonds so issued or to be issued are and shall be valid obligations of the State.

§39-18 Bonds negotiable, incontestable. This part, without reference to any other law, shall be full authority to issue, exchange, or sell bonds of the State, and the bonds and all interim receipts or certificates shall have all the qualities of negotiable paper under state law. The bonds shall not be invalid for any irregularity or defect in the proceedings for the issue, sale, or exchange thereof. The bonds shall contain a recital that they have been authorized and issued pursuant to the laws of the State, which recital shall be conclusive evidence of their validity and the regularity of their issuance. No proceedings in respect of the issuance of any bonds shall be necessary except proceedings required by this part.

§39-19 Aviation fuel tax, pledge. If at any time the director of finance, with the approval of the governor, shall issue general obligation bonds for the purpose of refunding aviation revenue bonds, then so long as any general obligation refunding bonds are outstanding, the State covenants with the holders of the bonds that it will levy and collect an aviation fuel tax in an amount at least sufficient to provide for the payment of the principal and interest thereof, which amounts are hereby pledged to the payment of that principal and interest. The State reserves the right to issue subsequent bonds, whether general obligation or revenue bonds, equally secured by a pledge of the revenues of the aviation fuel tax.

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PART II. LOST, STOLEN, DESTROYED, OR DEFACED BONDS AND COUPONS

§39-31 Duplicates. (a) Whenever it appears to the director of finance by clear proof satisfactory to the director of finance that any bond of the State, without bad faith upon the part of the owner, has been lost, stolen, destroyed wholly or in part, or so defaced as to impair its value to the owner; the lost, stolen, wholly or partially destroyed, or defaced bond is identified by number and description; and the request for issuance of a new bond was made before the director of finance had notice that the lost, stolen, wholly or partially destroyed, or defaced bond had been acquired by a bona fide purchaser; the director of finance, under such conditions and upon such security as prescribed in section 39-33, shall cause to be issued a duplicate thereof, with remaining unpaid coupons, if any, attached and so marked as to show the original number of the bond lost, stolen, wholly or partially destroyed, or defaced and the date thereof; provided that in the case of fully registered bonds the duplicate may be numbered in the manner as the registrar deems proper.

(b) All duplicate bonds in coupon form issued in place of bonds lost, stolen, wholly or partially destroyed, or defaced shall be lithographed or steel engraved unless otherwise provided in the proceedings authorizing the issuance thereof, and shall bear the manual signatures of the director of finance or a duly authorized deputy director of finance and the comptroller, and an impression of the seal of the department of budget and finance shall be affixed thereon. Interest coupons shall bear a lithographed or engraved facsimile of the signature of the director of finance. Each signature of an officer on a duplicate coupon bond shall be the signature of the person serving as the officer on the date of signing and any duplicate coupon bond so executed and sealed shall be valid and sufficient for all purposes. All duplicate bonds in fully registered form issued in place of bonds lost, stolen, wholly or partially destroyed, or defaced shall be from the stock of fully registered bonds of the series then held by the registrar for that series and shall be executed, sealed, and authenticated in the same manner as fully registered bonds of that series. Any duplicate fully registered bond executed, sealed, and authenticated as provided in this section shall be valid and sufficient for all purposes.

When the lost, stolen, wholly or partially destroyed, or defaced bond appears to have been of a class or series that has been called or will be called in for redemption or will mature within a period of one year following the date of application for a duplicate bond, instead of issuing a duplicate bond therefor, the director of finance, under conditions and upon such security, if any, as the director of finance may prescribe, may pay the bond at its call date with interest if it is already called for redemption or if it is to be called for redemption or will mature within the period of one year, or may issue a transferable certificate of ownership to the applicant, and pay on the certificate the call price of the bond represented thereby together with interest called for by the lost, stolen, wholly or partially destroyed, or defaced bond on the date of its call or its original maturity upon surrender of the certificate of ownership. All transferable certificates of ownership which may be issued pursuant to the terms hereof shall be in such form as the director of finance may prescribe and shall be signed by the director of finance or a duly authorized deputy director of finance and by the comptroller of the State, and an impression of the seal of the department of budget and finance shall be affixed thereto.

All expenses necessary for the providing of any duplicate bond, coupon, or both, as the case may be, or certificate of ownership shall be borne by the owner thereof and the expenses shall be paid at the time the request for replacement is filed.

§39-32 Payment to be made. Whenever any interest coupons on any bonds issued by the State are lost, wholly or partially destroyed, defaced, or stolen, any person being the legal holder of these coupons may secure payment of the same in the manner provided in section 39-33, notwithstanding the loss, whole or partial destruction, defacement, or theft.

§39-33 Method of issuance and payment. A claimant for issuance of a new bond or for payment shall make written application, under oath, in such form as the director of finance shall prescribe, stating facts definitively identifying the bonds or coupons and showing the loss, whole or partial destruction, defacement, or theft of the same, and the ownership of the same by the person applying, and shall present further evidence as the director of finance may reasonably require to establish the identity of the bonds or coupons, their loss, whole or partial destruction, defacement, or theft, and the ownership of the same by the claimant.

The director of finance shall not provide for the issuance of a replacement for or the payment of the lost, stolen, wholly or partially destroyed, or defaced bond, coupon, or both, as the case may be, unless the claimant shall have executed and delivered to the director of finance a legal and sufficient surety bond in an amount equal to the loss which may be suffered by the State, any transfer agent, paying agent, or registrar by reason of issuing replacements or making payments mentioned in this section. Any surety bond shall be in the form and with sufficient surety or sureties as shall be satisfactory to the director of finance, and shall be conditioned to indemnify and save harmless the State, any transfer agent, paying agent, or registrar from any and all loss on account of the bond, coupon, or both, as the case may be, so claimed to have been lost, stolen, wholly or partially destroyed, or defaced. The duration of the surety bond shall be not less than the date upon which the bond, coupon, or both, as the case may be, being replaced or paid, become due and payable, plus the period of the statute of limitations applicable to bonds and coupons. In the case of a partially destroyed or defaced bond, coupon, or both, as the case may be, the claimant shall surrender the partially destroyed or defaced bond, coupon, or both, as the case may be, at the time of delivery of the replacement.

§39-34 Disputed ownership. If there are two or more claimants claiming adversely, each to the other or others, to be the holder in due course of the bonds or coupons alleged to have been lost, wholly or partially destroyed, defaced, or stolen, the director of finance, in the director of finance's discretion, may require the claimants, if not within the State, to appoint agents within the State to accept service of process, or otherwise to submit to the jurisdiction of the courts of the State, and may bring suit on behalf of the State in the circuit court of the first judicial circuit, against the claimants, by interpleader, for the determination of the claimant or claimants entitled to the payment of the bonds or coupons. Jurisdiction is hereby conferred upon the court to hear and determine, without a jury, the suits and to determine whether any of the claimants are entitled to the payment, and, if so, which of the claimants is so entitled; provided that the determination shall not dispense with the requirement of the giving of a bond, before the payment of the claims. The costs of the suit shall be borne by the claimants, and the court may decree the payment of the costs by any of the unsuccessful claimants, or the apportionment thereof, as may be deemed just. The decision of the court shall be appealable to the supreme court.

PART III. REVENUE BONDS

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§39-51 Definitions. Whenever used in this part, unless a different meaning clearly appears from the context:

“Bonds” means bonds, notes, and other instruments of indebtedness.

“Department” means any state department, board, commission, officer, authority, or agency (other than a “municipality” defined by section 49-1) which is charged by law with the administration of an undertaking or loan program.

“Department head” means any officer having charge of a department for which there is no governing body.

“Governing body” means any board, commission, agency, authority, public corporation, instrumentality, or other body consisting of more than one person, having charge of a department.

“Loan program” means the activities and policies undertaken by any department to provide assistance to members of the general public who are residents of the State by making loans or causing loans to be made available to them for purposes as may be authorized by law.

“Revenue” means the moneys collected, including any moneys collected from the State or any department, from the rates, rentals, fees, and charges prescribed for the use and services of, and the facilities and commodities furnished by, an undertaking or the use and services and benefits of a loan program.

“Revenue bonds” means all bonds payable solely from and secured by the revenue, or user taxes, or any combination of both, of an undertaking or loan program or any loan made thereunder for which bonds are issued and as otherwise provided in this part.

“Undertaking” means any public works and properties, improvement, or system owned or operated by the State or a department thereof, and from which the State or department may derive revenues, or with respect to which the State or department may derive user taxes.

“User taxes” means taxes 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 the undertaking.

§39-52 Declaration of policy. It is declared to be the policy of the State that any department acquiring, purchasing, constructing, reconstructing, improving, bettering, or extending an undertaking or establishing or administering a loan program pursuant to this chapter shall manage the undertaking or loan program in the most efficient manner consistent with sound economy and public advantage, and consistent with the protection of bondholders.

§39-53 Additional powers of departments. In addition to the powers which departments may otherwise have, any department shall have the power pursuant to this part:

- (1) To construct, acquire by gift, purchase, or the exercise of the right of eminent domain, reconstruct, improve, better, or extend any undertaking within its jurisdiction, and to acquire by gift, purchase, or the exercise of the right of eminent domain, lands or rights in land or water in connection therewith within its jurisdiction or to undertake the establishment and administration of a loan program as authorized by law within its jurisdiction;
- (2) To operate and maintain any undertaking or administer, operate, and maintain a loan program as authorized by law within its jurisdiction and furnish the services, facilities, and commodities thereof for its own use and for the use of public and private consumers;

- (3) To issue revenue bonds of the State in the amounts authorized by specific act or acts of the legislature to finance in whole or in part the cost of the acquisition, purchase, construction, reconstruction, improvement, betterment, or extension of any undertaking or the establishment and administration of any loan program as authorized by law;
- (4) Subject to the provisions of section 39-61, to impose, prescribe, and collect rates, rentals, fees, and charges for the use and services of, and the facilities and commodities furnished by, the undertaking or for the use and services of the loan program as authorized by law; and
- (5) To pledge to the punctual payment of the revenue bonds and interest thereon, or to covenant to pay into any special funds from which any of the revenue bonds may be payable, all or any portion of the revenue of the undertaking or loan program or of any part thereof, or the user taxes derived therefrom, or any combination of both (including improvements, betterments, or extensions thereto thereafter constructed or acquired) sufficient, among other things, to pay the revenue bonds and interest as they shall become due and to create and maintain reasonable reserves to pay the principal and interest; provided that no user taxes shall be pledged to the payment unless the legislature in the specific act or acts authorizing the issuance of the revenue bonds shall have provided that the revenue bonds may be payable from and secured by user taxes.

The department, in determining the cost, may include all costs and estimated costs of the issuance of the revenue bonds, all architectural, engineering, inspection, financial and legal expenses, all costs of establishing or administering a loan program authorized by law, the cost of causing the payment of the principal or interest or both of the revenue bonds to be insured or guaranteed, the initial cost of any support facility obtained as permitted by section 39-59, and interest which it is estimated will accrue during the construction period and for six months thereafter on money borrowed or which it is estimated will be borrowed pursuant to this part.

§39-54 Authorization of revenue bonds; details of revenue bonds. (a)

The issuance of revenue bonds for the acquisition, purchase, construction, reconstruction, improvement, betterment, or extension of any undertaking or the establishment and administration of any loan program authorized by law shall be authorized:

- (1) By a resolution or resolutions of the governing body of the department, which may be adopted at the same meeting at which the same are introduced by a majority of all the members of the governing body of the department then in office, and shall take effect immediately upon filing with the director of finance; or
- (2) By a certificate or certificates of a department head, which shall take effect immediately upon filing with the director of finance.

(b) The revenue bonds shall bear interest at such rate or rates payable at such time or times, may be in one or more series; may bear such date or dates; may mature at such time or times not exceeding thirty years from their respective dates; may be payable in such medium of payment and at such place or places within or without the State; may carry registration privileges; may be subject to such terms of redemption, to tenders for purchase or to purchase prior to their stated maturity at the option of the State or the holder, or both; may contain terms, covenants, and conditions; and may be in such form, either coupon or registered, as the resolution or certificate and subsequent resolutions or certificates, may provide; provided that notwithstanding the foregoing the department, with the approval of the governor and the director of finance, may provide for deeply discounted

revenue bonds which do not bear interest but are subject to redemption or retirement at their accreted value so long as the discounted value of the revenue bonds shall not exceed ten per cent of any series or issue of revenue bonds.

(c) The department head or the governing body shall determine the date, denomination or denominations, interest payment dates, maturity date or dates, place or places of payment, registration privileges and place or places of registration, redemption price or prices and time or times and terms and conditions and method of redemption, the right of the holder to tender for purchase and the price or prices and time or times and terms and conditions upon which the right might be exercised, the right to purchase and the price or prices and the time or times and terms and conditions upon which the right might be exercised and the purchase may be made, and all other details of revenue bonds issued pursuant to this part. A governing body may delegate the responsibility for any or all of the determinations, within limits prescribed by the governing body, to the member who is the presiding officer or to the executive director or other officer of the board, commission, agency, authority, public corporation, instrumentality, or other body.

§39-55 Sale of revenue bonds. (a) The director of finance may make such arrangements as may be necessary or proper for the sale of each issue of revenue bonds or part thereof as are issued pursuant to this part, including, without limitation, arranging for the preparation and printing of the revenue bonds, the official statement and any other documents or instruments deemed required for the issuance and sale of revenue bonds and retaining such financial, accounting and legal consultants, all upon such terms and conditions as the director of finance deems advisable and in the best interest of the State. The department head or the governing body may offer the revenue bonds at competitive sale or may negotiate the sale of the revenue bonds to any person or group of persons, to the United States of America, or any board, agency, instrumentality, or corporation thereof, to the employees retirement system of the State, to any political subdivision of the State, or to any board, agency, instrumentality, public corporation, or other governmental organization of the State or of any political subdivision of the State.

(b) The sale of the revenue bonds by the department head or the governing body by negotiation shall be at such price or prices, and upon such terms and conditions, and the revenue bonds shall bear interest at such rate or rates or such varying rates determined from time to time in the manner as the department head or the governing body, with the approval of the governor, shall approve.

(c) The sale of the revenue bonds by the department head or the governing body at competitive sale shall be at such price or prices and upon such terms and conditions, and the revenue bonds shall bear interest at such rate or rates or such varying rates determined from time to time in the manner as specified by the successful bidder, and the revenue bonds shall be sold in accordance with this subsection. The revenue bonds offered at competitive sale shall be sold only after published notice of sale advising prospective purchasers of the proposed sale. The revenue bonds offered at competitive sale may be sold to the bidder offering to purchase the revenue bonds at the lowest interest cost, the interest cost, for the purpose of this subsection, being determined on any one of the following bases as selected by the department head or the governing body, with the approval of the governor:

- (1) The figure obtained by adding together the amounts of interest payable on the revenue bonds from their date to their respective maturity dates at the rate or rates specified by the bidder and deducting from the sum obtained the amount of any premium offered by the bidder;
- (2) Where the interest on the revenue bonds is payable annually, the annual interest rate (compounded annually), or where the interest on the rev-

venue bonds is payable semiannually, the rate obtained by doubling the semiannual interest rate (compounded semiannually), necessary to discount the principal and interest payments on the revenue bonds from the dates of payment thereof to the date of the revenue bonds and to the price bid (the price bid for the purpose of this paragraph shall not include the amount of interest accrued on the revenue bonds from their date to the date of delivery and payment); or

- (3) Where the interest on the revenue bonds is payable other than annually or semiannually or will vary from time to time upon such basis as, in the opinion of the department head or the governing body, shall result in the lowest cost to the State;

provided that in any case the right shall be reserved to reject any or all bids and waive any irregularity or informality in any bid.

(d) Revenue bonds offered at competitive sale, without further action, shall bear interest at the rate or rates specified by the successful bidder or the varying rates determined from time to time in the manner specified by the successful bidder with the consent of the department head or the governing body. The notice of sale required by this section shall be published at least once and at least five days prior to the date of such sale in a newspaper published and of general circulation in the State and in a financial newspaper or newspapers published in any of the cities of New York, Chicago, or San Francisco, and shall be in such form and contain such terms and conditions as the department head or the governing body shall determine. The notice of sale shall comply with the requirements of this section if it merely advises prospective purchasers of the proposed sale and makes reference to a detailed notice of sale which is available to prospective purchasers and which sets forth the specific details of the revenue bonds and terms and conditions upon which any revenue bonds are to be offered. The notice of sale published and any detailed notice of sale may omit the date and time of sale, in which event the date and time shall be either published in the same newspapers in which the notice of sale has been published or transmitted via electronic communication systems deemed proper by the department head or the governing body, which are generally available to the financial community, in either case at least twenty-four hours prior to the time fixed for the sale.

(e) A governing body may delegate the responsibility for any or all of the determinations or actions to the member who is the presiding officer or to the executive director or other officer of the board, commission, agency, authority or public corporation, instrumentality, or other body.

§39-56 Form and execution of revenue bonds. Revenue bonds issued pursuant to this part shall be in such form as the department head or governing body may determine; shall be lithographed or engraved; shall be manually signed by the department head or a deputy department head designated by the department head; shall be sealed with the seal or a lithographed or engraved facsimile of the seal of the department; and shall be countersigned with a lithographed or engraved facsimile of the signature of the director of finance. In addition, fully registered revenue bonds may be authenticated with the manual signature of the registrar, if any, thereunto duly appointed by the director of finance. Notwithstanding the preceding provisions of this section, the department head or a deputy department head designated by the department head, with the approval of the governor, may provide that revenue bonds issued pursuant to this part may be typewritten, printed, or otherwise reproduced, and that the signature of the director of finance upon the revenue bonds may be the director of finance's manual signature. The coupons pertaining to the revenue bonds shall be executed with the lithographed or engraved facsimile signatures of the department head and the director of finance. In the case

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of a department having a governing body, for purposes of this section, the member who is the presiding officer or, if authorized by the governing body, the executive director or other officer of the board, commission, agency, authority or public corporation, instrumentality, or other body shall be deemed the department head. Pending the preparation of the definitive revenue bonds, interim receipts or certificates in such form and with such provisions as the department head or governing body may decide upon, may be issued to the purchaser or purchasers of revenue bonds sold pursuant to this part.

§39-57 Same, signatures. The revenue bonds bearing the signature of officers in office on the date of the signing thereof shall be valid and sufficient for all purposes, and shall have the same effect as if the persons officially signing the revenue bonds had remained in office until the delivery of the revenue bonds to the initial purchasers thereof, and in the case of fully registered revenue bonds upon any exchange or transfer between subsequent holders thereof, notwithstanding that the term of office of those persons or any of them may have expired or they may otherwise have ceased to be those officers before the delivery, exchange, or transfer. If the director of finance shall have designated a registrar for fully registered revenue bonds, the certificate or resolution authorizing the revenue bonds may provide that none of those fully registered revenue bonds shall be valid or obligatory for any purpose unless certified or authenticated by the registrar. If the certificate or resolution so provides, then all signatures of the officers of the State upon the fully registered revenue bonds may be facsimiles of the signatures, and the fully registered revenue bonds shall be valid and sufficient only if certified or authenticated by the manual signature of an authorized officer or signatory of the registrar.

Anything to the contrary notwithstanding, if blanks of fully registered revenue bonds shall be held by a registrar pending exchange or transfer for other fully registered revenue bonds of the same series, then upon delivery of revenue bonds in an exchange or transfer, the revenue bonds shall be valid and sufficient for all purposes, notwithstanding that the signatures of the officers of the State appearing thereon shall be those of the persons in office at the time of initial delivery of the revenue bonds or those of the persons in office at the time of the exchange or transfer. The validity of the revenue bonds shall not be dependent on or affected by the validity or regularity of any proceedings relating to the acquisition, purchase, construction, reconstruction, improvement, betterment, or extension of the undertaking or establishment or administration of the loan program authorized by law for which the revenue bonds are issued.

The resolution or certificate authorizing the revenue bonds shall provide that the revenue bonds shall contain a recital that they are issued pursuant to this part, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

§39-58 CUSIP numbers. The department issuing revenue bonds pursuant to this part, in its discretion, may provide that CUSIP identification numbers shall be imprinted on the revenue bonds. In the event the numbers are imprinted on any revenue bonds:

- (1) No CUSIP identification number shall constitute a part of the contract evidenced by the particular revenue bond upon which it is imprinted; and
- (2) No liability shall attach to the State, the department, or any officer or agent thereof, including any fiscal agent, paying agent, or registrar for the revenue bonds, by reason of the numbers or any use made thereof, and including any use made by the State, the department, any officer or agent, or by reason of any inaccuracy, error, or omission.

The department in its discretion may require that all cost of obtaining and imprinting the CUSIP identification numbers shall be paid by the purchaser of the revenue bonds. For the purposes of this section, the term "CUSIP identification numbers" means the numbering system adopted by the Committee for Uniform Security Identification Procedures formed by the Securities Industry Association.

§39-59 Support facility for variable rate revenue bonds. If revenue bonds issued pursuant to this part are issued bearing interest at a rate or rates which vary from time to time and with a right of holders to tender the revenue bonds for purchase, the department head or the governing body, with the approval of the governor, may contract for such support facility or facilities and remarketing arrangements as are required to market the revenue bonds to the greatest advantage of the State or department upon such terms and conditions as the department head or governing body deem necessary and proper.

The department head or the governing body may enter into contracts or agreements with the entity or entities providing a support facility; provided that any contract or agreement shall provide, in essence, that any amount due and owing by the department under the contract or agreement on an annual basis shall be payable solely from the revenue of the undertaking or loan program and any obligation issued or arising pursuant to the terms of the contract or agreement in the form of revenue bonds, notes, or other evidences of indebtedness shall only arise at such time as either:

- (1) Moneys or securities have been irrevocably set aside for the full payment of a like principal amount of revenue bonds issued pursuant to this part; or
- (2) A like principal amount of the issue or series of revenue bonds to which the support facility relates are held in escrow by the entity or entities providing the support facility.

§39-60 Covenants in resolution or certificate authorizing issuance of revenue bonds. Any resolution or certificate authorizing the issuance of revenue bonds pursuant to this part may contain covenants as to:

- (1) The purpose or purposes to which the proceeds of sale of the revenue bonds shall be applied and the use and disposition thereof;
- (2) The use and disposition of the revenue of the undertaking or the loan program for which the revenue bonds are to be issued, or the user taxes derived therefrom, or both revenue and user taxes, to the extent pledged to the payment of the revenue bonds, including the priority of payments from the revenue and the creation and maintenance of reserves and the investment thereof;
- (3) The issuance of other or additional revenue bonds payable from the revenue of the loan program or of the undertaking, or the user taxes derived therefrom, or both revenue and user taxes, to the extent pledged to the payment of the revenue bonds;
- (4) The operation, maintenance, and repair of the undertaking or the administration, operation, and maintenance of the loan program;
- (5) The insurance to be carried on an undertaking or on the security for a loan program and the use and disposition of insurance proceeds, the insurance policies being by this section authorized to be carried, and no undertaking shall have recourse to the state insurance fund for the repair or replacement of any property in the undertaking, or for payment of claims under chapter 386 (relating to workers' compensation);
- (6) Books of account and the inspection and audit thereof; and

- (7) The terms and conditions upon which the holders of the revenue bonds or any proportion of them or any trustee therefor shall be entitled to the appointment of a receiver by any court of competent jurisdiction, which court shall have jurisdiction in the proceedings, and which the receiver may enter and take possession of the undertaking, operate, maintain, and repair the same, enforce or foreclose loans made under a loan program, impose and prescribe rates, rentals, fees, or charges, collect, receive and apply all revenue, and receive and apply all user taxes, thereafter arising therefrom in the same manner and to the same extent as the department itself might do;

provided that all covenants shall be subject to review by the governor; and provided further that the provisions of this section with respect to user taxes shall be applicable only if the legislature in the specific act or acts authorizing the issuance of the revenue bonds has provided that the revenue bonds may be paid from and secured by the user taxes derived from an undertaking.

The provisions of this part and any resolution or certificate shall be a contract with the holder or holders of the revenue bonds. The duties of the department, its governing body and department head, pursuant to this part, and any resolution or certificate shall be enforceable by any bondholder, by mandamus or other appropriate suit, action, or proceeding in any court of competent jurisdiction.

§39-61 Rates, rentals, fees, and charges; undertakings and loan programs to be self-sustaining. (a) The department issuing revenue bonds pursuant to this part shall impose, prescribe, and collect rates, rentals, fees, or charges for the use and services of, and the facilities and commodities furnished by, the undertaking or for the use and services and benefits of the loan program for which the revenue bonds are issued, and shall revise the rates, rentals, fees, or charges from time to time whenever necessary, so that, together with the proceeds of the user taxes derived with respect to the undertaking pledged to the payment of those revenue bonds, the undertaking or loan program shall be and always remain self-sustaining. The rates, rentals, fees, or charges imposed and prescribed shall produce revenue which, together with the proceeds of the user taxes, will be at least sufficient:

- (1) To make the required payments of the principal of and interest on all revenue bonds issued for the undertaking or loan program, including the payment of all revenue bonds and interest thereon for the payment of which the revenue, or user taxes, or combination of both, are or shall have been pledged, charged or otherwise encumbered, or which are otherwise payable from the revenue or user taxes, or combination of both, or are payable from a special fund maintained, or to be maintained, from the revenue or user taxes, or combination of both, including reserves therefor, and to maintain the special fund in an amount at least sufficient to pay when due all revenue bonds and interest thereon which are payable from the special fund, including reserves therefor;
- (2) To pay the cost of operation, maintenance, and repair of the undertaking, or to pay the cost of the administration, operation, and maintenance of the loan program, including reserves therefor; and
- (3) To carry out the covenants of the resolution or resolutions or certificate or certificates authorizing the issuance of the revenue bonds, including any covenants approved by the governor as to the minimum amounts of revenue to be produced by the undertaking or loan program for which the revenue bonds are issued.

(b) The legislature hereby covenants, pledges, and obligates itself, whenever it shall have authorized the issuance for an undertaking or loan program of revenue

bonds payable from and secured by the user taxes derived with respect to the undertaking, or payable from and secured by user taxes and the revenue, or any combination of both, of the undertaking or loan program to impose, or continue to impose, user taxes with respect to the undertaking in amounts at least sufficient, together with the revenue of the undertaking or loan program pledged to the payment and security, so that the undertaking or loan program shall be and always remain self-sustaining, and all payments referred to in subsection (a), including reserves therefor, may be made when due, and that compliance with any covenants referred to in the provisions is assured.

§39-62 Use of revenue and user taxes of undertaking or loan program.

Whenever any revenue bonds have been issued pursuant to this part for an undertaking or a loan program, the revenue, or the user taxes, or combination of both, of the undertaking or loan program from which the revenue bonds are payable and by which they are secured shall be deposited in a special fund and shall be appropriated, applied, or expended, and the department shall have the right to appropriate, apply, or expend the same, in the amount necessary therefor for the following purposes and in the order of priority as the department shall provide in the resolution or certificate authorizing the issuance of revenue bonds pursuant to this part:

- (1) To pay when due all revenue bonds and interest thereon issued for the undertaking or loan program, for the payment of which the revenue, or user taxes, or combination of both, is or shall have been pledged, charged, or otherwise encumbered, including reserves therefor;
- (2) To pay or provide for the payment of the cost of operation, maintenance, and repair of the undertaking, or to pay or provide for the payment of administering, operating, and maintaining the loan program, including reserves therefor;
- (3) For such purposes, within the jurisdiction, powers, duties, and functions of the department, including the creation and maintenance of reserves, as shall have been covenanted in any resolution or resolutions or certificate or certificates of the department providing for the issuance of revenue bonds;
- (4) To reimburse the general fund of the State for all bond requirements for general obligation bonds which are or shall have been issued for the undertaking or loan program, or to refund any general obligation bonds, except insofar as the obligation of reimbursement has been or shall be canceled by the legislature, the bond requirements being the interest on term and serial bonds, sinking fund for term bonds, and principal of serial bonds maturing the following year;
- (5) To provide for betterments and improvements to the undertaking or expansion of the loan program, including reserves therefor; and
- (6) To provide special reserve funds and other special funds as are or may be created by law.

Unless and until adequate provision has been made for the foregoing purposes, the State shall not have the right to transfer to its general fund or apply to any other purposes any part of the revenue or user taxes pledged to the payment of revenue bonds of the undertaking or loan program.

§39-63 Lien and charge of revenue bonds. Unless otherwise provided in the resolution or certificate, all revenue bonds of the same issue shall, subject to the prior and superior rights of outstanding revenue bonds, claims, or obligations, have a prior and paramount lien and charge on the revenue, or the user taxes, or combination of both, of the undertaking or loan program for which the revenue bonds have been issued, pledged to the payment thereof, over and ahead of all

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bonds of any issue payable from the revenue, or user taxes, or combination of both, which may be subsequently issued and over and ahead of any claims or obligations of any nature against the revenue, or user taxes, or combination of both, subsequently arising or subsequently incurred. All revenue bonds of the same issue shall be equally and ratably secured without priority by reason of number, date of bonds, of sale, of execution, or of delivery, by a lien and charge on the revenue or user taxes, or combination of both, pledged to the payment thereof, in accordance with this part and the resolution or certificate authorizing the issuance of revenue bonds.

§39-64 Revenue bonds not a general or moral obligation of State. Unless otherwise provided in this section, revenue bonds issued pursuant to this part shall be payable solely from and secured by the revenue, or the user taxes, or combination of both, of the undertaking or loan program for which the revenue bonds have been issued, pledged to the payment thereof, or secured solely by and payable solely from a special fund to be maintained from the revenue, or user taxes, or combination of both, pledged to the special fund, and shall not constitute a general or moral obligation of the State or a charge upon the general fund of the State, nor shall the full faith and credit of the State be pledged to the payment of the principal and interest thereof.

Revenue bonds issued for the purpose of establishing and administering a loan program authorized by law may also be secured by a pledge of all or a portion of undertakings, mortgages, and other obligations held by the department as security for a loan made under the program. Each revenue bond issued pursuant to this part shall recite in substance that the revenue bonds and the interest thereon are payable from and secured by the revenue, or the user taxes, or combination of both, of the undertaking or loan program for which the revenue bond is issued, pledged to the payment thereof, or secured by and payable from a special fund to be maintained from the revenue, or user taxes, or combination of both, pledged to the special fund, and that the revenue bond is not a general or moral obligation of the State and the full faith and credit of the State are not pledged to the payment of principal and interest.

§39-65 Undertaking, loan program, and revenue bonds exempt from taxation. So long as the State owns any undertaking or administers a loan program, the property and revenue of the undertaking or loan program shall be exempt from all state, county, and municipal taxation; provided that any interest in property provided or given as security for a loan made under a loan program shall not be or be deemed to be property of a department for purposes of this section. Revenue bonds issued pursuant to this part and the income therefrom shall be exempt from all taxation by the State or any county or other political subdivision thereof, except inheritance, transfer, and estate taxes.

§39-66 Federal tax-exempt status; preference; protection. (a) Revenue bonds issued pursuant to this part, to the extent practicable, shall be issued to comply with requirements imposed by applicable federal law providing that the interest on such revenue bonds shall be excluded from gross income for federal income tax purposes (except as certain minimum taxes or environmental taxes may apply). The department head or presiding officer of the governing body is authorized to enter into agreements, establish funds or accounts and take any action required in order to comply with applicable federal law. Nothing in this part or this chapter shall be deemed to prohibit the issuance of revenue bonds, the interest on which may be included in gross income for federal income tax purposes.

(b) For the purpose of insuring that interest on revenue bonds issued pursuant to this part which is excluded from gross income for federal income tax purposes

(except as provided in subsection (a)) on the date of issuance shall continue to be so excluded, no state officer or employee, or user of an undertaking or loan program shall authorize or allow any change, amendment, or modification to an undertaking or loan program financed or refinanced with the proceeds of revenue bonds which change, amendment, or modification thereto would affect the exclusion of interest on those revenue bonds from gross income for federal income tax purposes unless the change, amendment, or modification shall have received the prior approval of the department head or chairperson of the governing body. Failure to receive the approval of the department head or chairperson of the governing body shall render any change, amendment, or modification void.

§39-67 Revenue bonds legal investments. All public officers and bodies of the State, all political subdivisions, all insurance companies and associations, all banks, savings banks, and savings institutions, including building or savings and loan associations, all trust companies, all personal representatives, guardians, trustees, and all other persons and fiduciaries in the State who are regulated by law as to the character of their investment, may legally invest funds within their control and available for investment in revenue bonds of the State. The purpose of this section is to authorize any person, firm, corporation, association, political subdivision, body, or officer, public or private, to use any funds owned or controlled by them, including (without prejudice to the generality of the foregoing), sinking, insurance, investment, retirement, compensation, pension, trust funds, and funds held on deposit, for the purchase of any revenue bonds of the State.

§39-68 Duties of the director. (a) The director of finance, when requested by the department, shall render full and complete assistance to any department in the preparation and sale of revenue bonds issued pursuant to this part. The director of finance shall be the fiscal agent of the department for the payment of all principal and interest, and for the transfer of revenue bonds. Sections 36-3 and 39-13, relating to the appointment by the director of finance of other fiscal agents and transfer agents, and to the status of funds held by these fiscal agents, to the extent that they may appropriately be applied, shall be deemed incorporated in this part.

(b) The director of finance shall cause to be set up in the treasury of the State suitable accounts for the deposit of all revenues of the undertaking or loan program, and for the payment of all revenue bonds and the interest thereon and for all other payments provided or required by this part, and for the holding of all reserves created pursuant to this part.

(c) If deemed necessary or advisable by the department, the director of finance may appoint a national or state bank or trust company, within or without the State, to serve as trustee for the holders of the revenue bonds, and the department may enter into a trust indenture or trust agreement or indenture of mortgage with the trustee. The trustee may be authorized by the department to receive and receipt for, hold and administer the proceeds of the revenue bonds and to apply the same to the purposes for which the revenue bonds are issued, or to receive and receipt for, hold and administer all or part of the revenue derived by the department from the undertaking or loan program and to apply the revenue to the payment of the principal of and interest on the revenue bonds, or both.

In the event that the trustee shall be appointed, any trust indenture or trust agreement or indenture of mortgage entered into by the department with the trustee may contain whatever covenants and provisions authorized by this part as may be deemed necessary by the department, and any covenants or provisions so contained need not be included in a resolution adopted or certificate issued pursuant to this part, but may be incorporated by general reference thereto in the resolution or certificate. Any resolution or certificate, trust indenture or trust agreement or in-

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denture of mortgage adopted, issued, or entered into by the department pursuant to this part may also contain any provisions required for the qualification thereof under the federal Trust Indenture Act of 1938 (15 U.S.C. §77aaa), as amended, or deemed necessary or desirable by the department for the security and protection of the holders of the revenue bonds or to carry out the purposes of this part. The department may pledge and assign to the trustee all or any part of the revenue of the undertaking or loan program for the benefit of the holders of the revenue bonds.

(d) If the director of finance shall appoint a trustee for the holders of the revenue bonds as provided in subsection (c), then notwithstanding subsection (a), 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 fiscal agent.

The director of finance may appoint the trustee to serve as fiscal agent, and may authorize and empower the trustee to perform such functions with respect to the payment, purchase, registration, transfer, exchange, and redemption, as the director of finance 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 conducting of the destruction thereof in accordance with sections 40-10 and 40-11. Nothing in this subsection shall be a limitation upon the powers granted to the director of finance in sections 36-3 and 39-13 and subsection (a) to appoint the trustee or others as fiscal agents, paying agents, and registrars for the revenue bonds or to authorize and empower those fiscal agents, paying agents, and registrars to perform the functions referred to in subsection (a). The intent of this subsection is to permit the director of finance, at the director of finance's election, not to serve as fiscal agent for the revenue bonds or to limit the functions the director of finance shall perform as fiscal agent, as the director of finance may deem necessary, advisable, or expedient.

§39-69 Investment of reserves, etc. The director of finance, with the approval of the department, may invest any money held as reserves or in sinking funds or not required for immediate disbursement, including proceeds of the revenue bonds, which in the department's judgment are in excess of the amounts necessary for the meeting of immediate requirements, in securities permitted by the resolution or certificate and which constitute legal investments for public funds. Income derived therefrom shall be treated as revenue of the undertaking or loan program; expenses of purchase, safekeeping, sale, and redemption, and all other expenses attributable to the investments shall be proper expenses of the undertaking or loan program. Securities so purchased shall be considered as being deposited in the custody or control of the director of finance by the department, and shall be legally secured as provided in section 38-3.

§39-70 Bond anticipation notes. In anticipation of the issuance of revenue bonds pursuant to this part theretofore authorized by the legislature for an undertaking or a loan program and of the receipt of the proceeds of such revenue bonds, the department having jurisdiction over the undertaking or a loan program, with the approval of the governor, may issue and sell revenue bond anticipation notes for the purposes for which the revenue bonds have been authorized, the maximum principal amount of which shall not exceed the authorized principal amount of the revenue bonds. The notes shall be payable solely from and secured by the proceeds of the sale of the revenue bonds in anticipation of which they were issued and the revenue, or the user taxes, or a combination of both, which would be payable from and secured by the revenue bonds; provided that to the extent the principal of the notes is paid from moneys other than the proceeds of sale of the revenue bonds,

the maximum amount of revenue bonds in anticipation of which the notes are issued that has been authorized shall be reduced by the amount of the notes paid. The issuance of notes and the details thereof shall be governed by this part with respect to revenue bonds insofar as it may apply; provided that each note, together with all renewals and extensions thereof or refundings thereof by other notes issued pursuant to this section, shall mature within five years from the date of the original note.

§39-71 Refunding revenue obligations. (a) Whenever the State or any department thereof shall have outstanding any revenue bonds, and the department with the approval of the governor and the director of finance, determines that it will be financially sound and advantageous to the State to refund any outstanding revenue bonds, the department with the approval of the governor but without further authorization of the legislature, shall have the power to provide for the issuance of refunding revenue bonds with which to provide for the payment of the outstanding revenue bonds or any part thereof at or before the maturity or redemption date thereof, with the right to include various series and issues of the outstanding revenue bonds in a single issue of refunding revenue bonds, to pay any redemption premium and interest to accrue and become payable on the outstanding revenue bonds being refunded, and to establish reserves for the refunding revenue bonds and partly to refund outstanding revenue bonds and partly for the construction or acquisition of improvements and additions to and extensions of the undertaking for the construction or acquisition of which the outstanding revenue bonds were issued or, in the case of a loan program, partly to extend the loan program.

(b) The refunding revenue bonds shall be payable solely from and secured by the revenue of the loan program or undertaking, or the user taxes derived with respect to the undertaking, or a combination of both, from which were payable and by which were secured the outstanding revenue bonds to be refunded, and shall be a valid claim only as against the revenue or user taxes, or combination of both. Refunding revenue bonds issued for the purpose of establishing and administering a loan program may also be secured by a pledge of all or a portion of undertakings, mortgages, and other obligations held by the department as security for a loan made under the program. The interest rate or rates of the refunding revenue bonds shall not be limited by the interest rate or rates borne by any of the revenue bonds to be refunded thereby.

The refunding revenue bonds, in the discretion of the department and with the approval of the governor and the director of finance, may be exchanged at par for the revenue bonds which are being refunded or may be sold in the manner provided in this part for revenue bonds, as the department deems to be in the best interest of the State.

The refunding revenue bonds may be issued and delivered at any time prior to the date of maturity or redemption date of the revenue bonds to be refunded that the department deems to be in the best interest of the State. The refunding revenue bonds, except as specifically provided in this section, shall be issued in accordance with the provisions of this part with respect to revenue bonds. Pending the time the proceeds derived from the sale of refunding revenue bonds issued under this part are required for the purposes for which they were issued, the proceeds, upon authorization or approval of the governor, may be invested in obligations of, or obligations unconditionally guaranteed by the United States of America, or in savings accounts, time deposits, or certificates of deposit of any bank or trust company within or without the State, to the extent that such savings accounts, time deposits, or certificates of deposit are collaterally secured by a pledge of obligations of, or obligations unconditionally guaranteed by, the United States of America; or in obligations of any state of the United States of America or any agency, instru-

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mentality, or local government thereof, the provision for payment of the principal and interest which shall have irrevocably been made by deposit of obligations of, or obligations unconditionally guaranteed by the United States of America.

To further secure refunding revenue bonds, or the revenue bonds being refunded, or both, the State may enter into a contract with any bank or trust company, within or without the State, with respect to the safekeeping and application of the proceeds of refunding revenue bonds, and the safekeeping and application of the earnings of investment. All revenue bonds refunded and redeemed by the issue and sale or issue and exchange of refunding revenue bonds shall be canceled.

(c) Nothing in this section shall require the department to elect to redeem or prepay revenue bonds being refunded, or to redeem or prepay revenue bonds being refunded which were issued in the form customarily known as term bonds in accordance with any sinking fund installment schedule specified in any proceedings authorizing the issuance thereof, or in the event the department elects to redeem or prepay any bonds, to redeem or prepay as of any particular date or dates. The determination of the department with respect to the financial soundness and advantage of the issuance and delivery of refunding revenue bonds authorized, when approved by the governor and the director of finance shall be conclusive, but nothing in this section shall require the holders of any outstanding revenue bonds being refunded to accept payment thereof otherwise than as provided in the revenue bonds to be refunded.

§39-72 Transfers to department. When there are moneys in the general, special, or revolving funds of the State, which in the judgment of the director of finance are in excess of the amounts necessary for the immediate state requirements, the director of finance may make temporary transfers of moneys to the department for purposes for which revenue bonds may be issued, if in the judgment of the director of finance the action will not impede or hamper the necessary financial operations of the State. The total amount of temporary transfers for any undertaking or loan program shall not exceed the sum of the unissued revenue bonds authorized therefor by the legislature. The general, special, or revolving funds shall be reimbursed from the proceeds upon the eventual issuance and sale of the revenue bonds. The sale of the revenue bonds shall not be deferred beyond the date fixed by the director of finance for reimbursement.

The director of finance may make temporary transfers from the general, special, or revolving funds to any account which has been set up in the treasury for the payment of revenue bonds, or the interest thereon, or to any other account which has been set up in the treasury for the making of other payments as are provided or required in this part. Any transfer may be made when the account is first opened and prior to any payment therefrom, or prior to the issuance of revenue bonds for the undertaking or loan program, or at any time when the account may be temporarily depleted. No transfer shall be made unless, in the judgment of the director of finance, the account to which the moneys are transferred will be able to effect reimbursement on or before the date fixed by the director of finance for reimbursement.

No interest shall be charged upon any transfer made, and transfers shall be made only upon the request of the department.

§39-73 Consent of governmental agencies. It shall not be necessary for any department proceeding pursuant to this part to obtain any certificate of convenience or necessity, franchise, license, permit, or other authorization from any bureau, board, commission, or other like instrumentality of the State or its political subdivisions in order to acquire, construct, purchase, reconstruct, improve, better, extend, maintain, and operate an undertaking.

§39-74 General laws applicable. The provisions of part II, relating to lost, stolen, destroyed, or defaced bonds, and to lost, stolen, destroyed, or defaced coupons, to the extent that they are applicable, shall apply to revenue bonds issued pursuant to this part.

§39-75 Construction. The powers conferred by this part shall be in addition and supplemental to the powers conferred by any other law concerning any undertaking or loan program. An undertaking may be acquired, purchased, constructed, reconstructed, improved, bettered, and extended, or a loan program established, maintained, or extended, and revenue bonds may be issued pursuant to this part for those purposes; notwithstanding that any other law may provide for the acquisition, purchase, construction, reconstruction, improvement, betterment, or extension of a like undertaking or the establishment, maintenance, or extension of a like loan program, without regard to the requirements, restrictions, limitations, or other provisions contained in any other law. Except as expressly provided in any other law, insofar as the provisions of this part are inconsistent with the provisions of any other laws, the provisions of this part shall be controlling.

§39-76 Validation of proceedings. All proceedings taken with respect to the contracting of revenue bonded indebtedness and the issuance, sale, execution, and delivery of revenue bonds by or on behalf of this State, are hereby validated, ratified, approved, and confirmed, notwithstanding any defects or irregularities in any proceedings or in the issuance, execution, sale, or delivery, and the revenue bonds so issued or to be issued are and shall be valid obligations of the State."

SECTION 4. All acts passed by the legislature during this regular Session of 1988, whether enacted before or after the effective date of this Act, shall be amended to conform with this Act unless the acts specifically provide that this Act is being amended.

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

(Approved May 5, 1988.)

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S.B. NO. 2065

A Bill for an Act Relating to Regulation.

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

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

"§26H-4 Repeal dates. (a) The following chapters are hereby repealed effective December 31, 1988:

- (1) Chapter 465 (Board of Psychology)
- (2) Chapter 468E (Board of Speech Pathology and Audiology)
- (3) Chapter 468K (Travel Agencies)
- (4) Chapter 373 (Commercial Employment Agencies)
- (5) Chapter 442 (Board of Chiropractic Examiners)
- (6) Chapter 448 (Board of Dental Examiners)
- (7) Chapter 436E (Board of Acupuncture)

(b) The following chapter and sections¹ are hereby repealed effective December 31, 1989:

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- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448E (Board of Electricians and Plumbers)
- (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
- (4) Chapter 466 (Board of Public Accountancy)
- (5) Chapter 467 (Real Estate Commission)
- (6) Chapter 439 (Board of Cosmetology)
- (7) Chapter 454 (Mortgage Brokers and Solicitors)
- (8) Chapter 454D (Mortgage and Collection Servicing Agents)

(c) The following chapter and sections are hereby repealed effective December 31, 1990:

- (1) Chapter 466J (Board of Radiologic Technology)
- (2) Sections 321-13 to 321-15 (midwives, laboratory directors, laboratory technologists, laboratory supervisors, laboratory technicians, tattoo artists, electrologists, and sanitarians)

[c)] (d) The following chapters are hereby repealed effective December 31, 1990:] 1991:

- (1) Chapter 447 (Dental Hygienists)
- (2) Chapter 453 (Board of Medical Examiners)
- (3) Chapter 457 (Board of Nursing)
- (4) Chapter 458 (Board of Dispensing Opticians)
- (5) Chapter 460J (Pest Control Board)
- (6) Chapter 462A (Pilotage)
- (7) Chapter 438 (Board of Barbers)

[d)] (e) The following chapters are hereby repealed effective December 31, 1991:] 1992:

- (1) Chapter 448H (Elevator Mechanics Licensing Board)
- (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
- (3) Chapter 457B (Board of Examiners of Nursing Home Administrators)
- (4) Chapter 460 (Board of Osteopathic Examiners)
- (5) Chapter 461 (Board of Pharmacy)
- (6) Chapter 461J (Board of Physical Therapy)
- (7) Chapter 463² (Podiatry)

[e)] (f) The following chapters are hereby repealed effective December 31, 1992:] 1993:

- (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
- (2) Chapter 437B (Motor Vehicle Repair Industry Board)
- (3) Chapter 440 (Boxing Commission)
- (4) Chapter 446 (Debt Adjusters)

(g) The following sections are hereby repealed effective December 31, 1993:

- (1) Sections 445-21 to 38 (Auctions)
- (2) Sections 445-131 to 136 (Pawnbrokers)
- (3) Sections 445-171 to 172 (Secondhand Dealers)
- (4) Sections 445-231 to 235 (Scrap Dealers)

[f)] (h) The following chapters are hereby repealed effective December 31, 1993:] 1994:

- (1) Chapter 441 (Cemetery and Funeral Trusts)
- (2) Chapter 443B (Collection Agencies)
- (3) Chapter 452 (Board of Massage)
- (4) Chapter 455 (Board of Examiners in Naturopathy)
- (5) Chapter 459 (Board of Examiners in Optometry)

[g)] (i) The following chapters are hereby repealed effective December 31, 1997:

- (1) Chapter 463 (Board of Private Detectives and Guards)
 (2) Chapter 471 (Board of Veterinary Examiners)."

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

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

(Approved May 10, 1988.)

Notes

1. So in original.
2. Should be "463E".

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S.B. NO. 2272

A Bill for an Act Relating to Compensation of Public Officers and Employees.

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

SECTION 1. Section 77-10, Hawaii Revised Statutes, is amended to read as follows:

"§77-10 Compensation adjustments; rules. (a) The state director or the county commissions shall adopt rules to provide for adjustments and changes in compensation in the event of promotions, temporary promotions and assignments, demotions, and for the purpose of implementing section 77-4.

(b) In the case of promotion, reallocation, and repricing or temporary assignment upwards, the rules shall provide that the employee shall receive no less than:

- (1) The rate at the lowest step in the higher salary range which exceeds the employee's existing basic rate of pay by five per cent; or
- (2) If there is no step in the higher pay range which exceeds the employee's basic rate of pay by at least five per cent, the employee shall be compensated at the maximum step in the higher pay range, or at the employee's basic rate of pay, whichever is greater.
- (c) In the case of a voluntary demotion, the rules shall provide that the employee shall receive:

- (1) The rate at the highest step in the lower pay range which is not greater than ninety-five per cent of the employee's basic rate of pay; or
- (2) If there is no step in the lower pay range which rate is not greater than ninety-five per cent of the employee's basic rate of pay, the employee shall be compensated at the minimum step.

(d) The rules shall be adopted only after joint conference of the state director and all county commissions and shall be uniformly applied and interpreted throughout the State and the several counties.

(e) The rules shall give proper consideration to merit principles of employment, requirements of model conversion plans, and due recognition to length of service in the event of demotions resulting from physical conditions. The rules shall provide for methods of pay adjustment which may, in the event of nondisciplinary, involuntary movements or reassignments to lower pay ranges, include the payment of a temporary differential which is not to be considered as an adjustment to an employee's base pay. In no event may an employee's base pay exceed the maximum step of a lower pay range, or be increased to an amount which will exceed the

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maximum step of a higher pay range, when the employee moves or is reassigned to a different pay range. The employee's service anniversary date shall not change. No rule shall be applied in any way in violation of sound merit principles."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval; provided that in the case of promotion, reallocation, and repricing or temporary assignment upwards it shall be retroactive to October 1, 1987.

(Approved May 10, 1988.)

ACT 31

S.B. NO. 2294

A Bill for an Act Relating to Hunting.

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

SECTION 1. Section 183D-22, Hawaii Revised Statutes, is amended to read as follows:

"§183D-22 Application and issuance of licenses; fees. Hunting licenses shall be issued by agents of the department upon written application in the form prescribed by the department and the payment of a fee as provided in this section. The application shall require a statement under oath of the applicant's name, address, domicile or residence, length of residence in the State, age, race, height, weight, and color of hair and eyes. The fee shall be:

- (1) [\$7.50] **\$10** for any person who has resided in the State for one year or longer, or who is a member of the armed forces of the United States on active duty and the spouse and children thereof;
- (2) [\$15] **\$20** for all other persons; and
- (3) Free to all persons sixty-five years of age or older."

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

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

(Approved May 10, 1988.)

ACT 32

S.B. NO. 2380

A Bill for an Act Relating to Natural Area Reserves System.

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

SECTION 1. Section 195-9, Hawaii Revised Statutes, is amended to read as follows:

"[§195-9] Natural area reserve fund; heritage program [fund]; established[.]; reports. (a) There is hereby established in the state treasury the natural area reserve fund to implement the purposes of this chapter, including the identification, establishment, and management of natural area reserves and the acquisition of private lands for new natural area reserves, and for the heritage program. As used in this section the "heritage program", means a program with a comprehensive natural resource inventory data base for public information which shall include the

location of rare plants, animals and natural communities (ecosystems) in the State. The fund shall be administered by the department of land and natural resources[, and used to implement the purposes of this chapter].

(b) The fund shall consist of moneys received from any public or private sources. The fund shall be held separate and apart from all other moneys, funds, and accounts in the state treasury; except that any moneys received from the federal government or from private contributions shall be deposited and accounted for in accordance with conditions established by the agencies or persons from whom the moneys are received. Investment earnings credited to the assets of the fund shall become part of the assets of the fund.

(c) The department shall submit annually a detailed report to the governor and legislature setting forth the financial condition of the fund, including receipts and expenditures for the fund for the previous fiscal year.”

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

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

(Approved May 10, 1988.)

ACT 33

S.B. NO. 2603

A Bill for an Act Relating to Taxation of Trusts.

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

SECTION 1. Section 235-4.5, Hawaii Revised Statutes, is amended to read as follows:

“[[§235-4.5]] Taxation of trusts, beneficiaries; credit. (a) There shall be excluded from gross income any intangible income, such as dividends and interest, earned by a trust sited in this State to the extent that, during the taxable year of [such] the trust, the beneficial interest in the trust shall be held by a beneficiary or beneficiaries residing outside this State. This exclusion shall not apply to income received from real property held in a land trust formed under chapter 558.

(b) If a trust sited in this State owns one hundred per cent of the stock of a foreign corporation which does not engage in an active trade or business but acts solely as a holding company receiving intangible income, such as dividends and interest, the intangible income of the foreign corporation shall be excluded from gross income for Hawaii income tax purposes but only to the extent that the income of the trust beneficiaries is excluded from taxation under subsection (a). As used in this section, foreign corporation means a corporation not created or organized in the United States or under the laws of the United States, Hawaii, or any other state.

[(b)] (c) Any resident beneficiary of a trust with a situs in another state may claim a credit for income taxes paid by the trust to [such] the other state on any income received which is attributable to assets other than intangibles.”

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

SECTION 3. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1987.

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(Approved May 10, 1988.)

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S.B. NO. 2770

A Bill for an Act Relating to Child Support Enforcement.

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

SECTION 1. Section 576D-10, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The agency shall collect and disburse child support payments when a court order requires the collection and disbursal. Notwithstanding any other law to the contrary, the agency shall maintain a special interest bearing account for child support payments. Moneys collected by the agency for child support payments shall not be deposited into the state treasury, but shall be deposited into this account. Moneys to be disbursed by the agency for child support payments shall be disbursed from this account [and the] without appropriation or allotment. The interest realized from the account shall be [expended solely for purposes of administration of the child support program.] deposited into the state treasury to the credit of the general fund.”

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

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

(Approved May 10, 1988.)

ACT 35

S.B. NO. 2821

A Bill for an Act Relating to Workers' Compensation Insurance.

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

SECTION 1. Section 386-122, Hawaii Revised Statutes, is amended to read as follows:

“**§386-122 Notice of insurance.** If the insurance so effected is under section 386-121(a)(1), the employer shall [forthwith] file with the director [of labor and industrial relations] in a form prescribed by the director a notice of the employer's insurance together with a [copy of the contract or] statement of benefits provided by the policy of insurance.”

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

SECTION 3. This Act shall take effect on July 1, 1989.

(Approved May 10, 1988.)

ACT 36

S.B. NO. 2822

A Bill for an Act Relating to Employment Security.

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

SECTION 1. Section 383-141, Hawaii Revised Statutes, is amended to read as follows:

“§383-141 Falsely obtaining benefits, etc. Whoever makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment under this chapter or under the unemployment compensation law of any state or of the federal government, either for oneself or for any other person, shall be charged with a misdemeanor if the value of the benefit obtained or increased is [less than \$200,] \$300 or less, or shall be charged with a class C felony if the value of the benefit obtained or increased [is \$200 or more;] exceeds \$300; and each such false statement or misrepresentation or failure to disclose a material fact shall constitute a separate offense; provided that no fine or imprisonment shall be imposed in any case in which disqualification has been determined under section 383-30(5).”

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

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

(Approved May 10, 1988.)

ACT 37

S.B. NO. 2823

A Bill for an Act Relating to Workers' Compensation.

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

SECTION 1. Section 386-31, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Temporary total disability. Where a work injury causes total disability not determined to be permanent in character, the employer, for the duration of the disability, but not including the first three calendar days thereof, shall pay the injured employee a weekly benefit at the rate of sixty-six and two-thirds per cent of the employee's average weekly wages, subject to the limitations on weekly benefit rates prescribed in subsection (a), or if the employee's average weekly wages are less than the minimum weekly benefit rate prescribed in subsection (a), at the rate of one hundred per cent of the employee's average weekly wages.

The employer shall pay temporary total disability benefits promptly as they accrue to the person entitled thereto without waiting for a decision from the director, unless such right is controverted by the employer in the employer's initial report of industrial injury. The first payment of benefits shall become due and shall be paid no later than on the tenth day after the employer has been notified of the occurrence of the total disability, and thereafter the benefits due shall be paid weekly except as otherwise authorized pursuant to section 386-53.

The payment of such benefits shall only be terminated upon order of the director or if the employee is able to resume work. When the employer is of the opinion that temporary total disability benefits should be terminated because the injured employee is able to resume work, the employer shall notify the employee and the director in writing of an intent to terminate such benefits at least two weeks prior to the date when the last payment is to be made. The notice shall give the reason for stopping payment and shall inform the employee that the employee may make a written request to the director for a hearing if the employee disagrees with the employer. Upon receipt of the request from the employee, the director shall

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conduct a hearing as expeditiously as possible and render a prompt decision as specified in section 386-86.

An employer or insurance carrier who fails to comply with this section shall pay [\$250] not more than \$2,500 into the special compensation fund upon the order of the director, in addition to other penalties prescribed in section 386-92.

- (1) In any case where the director determines based upon a review of medical records and reports and other relevant documentary evidence that an injured employee's medical condition may be stabilized and the employee is unable to return to the employee's regular job, the director shall issue a preliminary decision regarding the claimant's entitlement and limitation to benefits and rights under Hawaii's workers' compensation laws. The preliminary decision shall be sent to the affected employee and the employee's designated representative and the employer and the employer's designated representative and shall state that any party disagreeing with the director's preliminary findings of medical stabilization and work limitations may request a hearing within twenty days of the date of the decision. The director shall be available to answer any questions during the twenty-day period from the injured employee and affected employer. If neither party requests a hearing challenging the director's finding the determination shall be deemed accepted and binding upon the parties. In any case where a hearing is held on the preliminary findings, any person aggrieved by the director's decision and order may appeal under section 386-87.

A preliminary decision of the director shall inform the injured employee and the employer of the following responsibilities, benefits, and limitations on vocational rehabilitation benefits which are designed to facilitate the injured employee's early return to suitable gainful employment:

- (A) That the injured employee may invoke the employee's rights under section 378-2, 378-32, or 386-142, or all of them, in the event of unlawful discrimination or other unlawful employment practice by the employer.
 - (B) That after termination of temporary total disability benefits an injured employee who resumes work may be entitled to permanent partial disability benefits, which if awarded, shall be paid regardless of the earnings or employment status of the disabled employee at the time.
- (2) In any case in which the rehabilitation unit determines that an injured employee is not a feasible candidate for rehabilitation and that the employee is unable to resume the employee's regular job, it shall promptly certify the same to the director. Soon thereafter, the director shall conduct a hearing to determine whether the injured employee remains temporarily totally disabled, or whether the employee is permanently partially disabled, or permanently totally disabled."

SECTION 2. Section 386-94, Hawaii Revised Statutes, is amended to read as follows:

"§386-94 Attorneys, physicians, other health care providers, and other fees. Claims of attorneys and physicians and other health care providers for services under this chapter and claims for any other services rendered in respect of a claim for compensation, to or on account of any person shall not be valid unless approved by the director [of labor and industrial relations] or, if an appeal is had, by the appellate board or court deciding the appeal. Any claims so approved shall be a

lien upon such compensation in the manner and to the extent fixed by the director, the appellate board, or the court.

Any person who receives any fee, other consideration, or gratuity on account of services so rendered, without approval of such fee, other consideration, or gratuity in conformity with the preceding paragraph shall be fined not more than [\$1,000,] \$10,000, or imprisoned not more than one year, or both."

SECTION 3. Section 386-95, Hawaii Revised Statutes, is amended to read as follows:

"§386-95 Reports of injuries, other reports, penalty. Every employer shall keep a record of all injuries, fatal or otherwise, received by the employer's employees in the course of their employment, when known to the employer or brought to the employer's attention.

Within seven working days after the employer has knowledge of such injury causing absence from work for one day or more or requiring medical treatment beyond ordinary first aid, the employer shall make a report thereon to the director [of labor and industrial relations]. The report shall set forth the name, address, and nature of the employer's business and the name, age, sex, wages, and occupation of the injured employee and shall state the date and hour of the accident, if the injury is produced thereby, [and] the nature and cause of the injury, and such other information as the director may require.

On December 31 of each year, the employer shall make a report to the director with respect to each injury on which the employer is continuing to pay compensation, showing all amounts [theretofore] paid by the employer on account of the injury.

The reports required by this section shall be made on forms to be obtained from the director pursuant to section 386-71 and deposit of reports in the United States mail, addressed to the director, within the time specified shall be deemed compliance with the requirements of this section.

When an injury results in immediate death, the employer shall within forty-eight hours notify personally or by telephone a representative of the department [of labor and industrial relations] in the county where the injury occurred.

Within thirty days after final payment of compensation for an injury, the employer shall make a final report to the director showing the total payments made, the date of termination of temporary total disability, and such other information as the director may require.

Any employer who wilfully refuses or neglects to make any of the reports or give any notice required by this section shall be fined not more than [\$100,] \$1,000, or imprisoned not more than ninety days, or both.

Copies of all reports, other than those of fatal injuries, filed with the director as required by this section shall be sent to the injured employee by the employer."

SECTION 4. Section 386-96, Hawaii Revised Statutes, is amended to read as follows:

"§386-96 Reports of physicians, surgeons, and hospitals. Any physician, surgeon, or hospital that has given any treatment or rendered any service to an injured employee shall make a report of the injury and treatment on forms prescribed by and to be obtained from the department as follows:

- (1) Within seven days after the date of first attendance or service rendered, an initial report shall be made to the department and to the employer of the injured employee in the manner prescribed by the department.
- (2) Interim reports to the same parties and in the same manner as prescribed

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in paragraph (1) shall be made at intervals of twenty-one days or less during continuing treatment.

- (3) Final report to the same parties and in the same manner as prescribed in paragraph (1) shall be made within seven days after termination of treatment.

No claim under this chapter for medical or surgical treatment, or hospital services and supplies, shall be valid and enforceable unless the reports are made as provided in this section, except that the director may excuse the failure to make the report within the prescribed period or a nonsubmission of said report when the director finds it in the best interest of justice to do so. If the director does not excuse the submission of: (a) an initial or interim report within the time prescribed in (1) and (2) above, the delinquent physician shall be fined in an amount not to exceed [\$25.] \$250; (b) a final report which is thirty days late or a nonsubmission, the delinquent physician shall be fined in an amount not to exceed [\$25.] \$250.

The director shall furnish to the injured employee a copy of the final report of the attending physician or surgeon or, if more than one physician or surgeon should treat or examine the employee, a copy of the final report of each physician or surgeon.

Within fifteen days after being requested to do so by the injured employee or the employee's duly authorized representative, the employer shall furnish the employee or the employee's duly authorized representative with copies of all medical reports relating to the employee's injury which are in the possession of the employer. The copies shall be furnished at the expense of the employer. The employer shall allow the employee or the employee's duly authorized representative to inspect and copy transcripts of depositions of medical witnesses, relating to the employee's injury, in the possession of the employer. Any employer who fails to furnish medical reports or to allow inspection and copying of transcripts of depositions of medical witnesses, as required by this paragraph shall be fined in an amount not to exceed [\$100.] \$1,000.

Deposit of the records required by the first paragraph of this section in the United States mail, addressed to the director and to the employer, within the time limit specified, shall be deemed to be in compliance with the requirements of this section."

SECTION 5. Section 386-123, Hawaii Revised Statutes, is amended to read as follows:

"§386-123 Failure to give security for compensation; penalty; injunction. If an employer fails to comply with section 386-121, the employer shall be liable [to] for a penalty of not less than [\$25] \$250 or of [\$1] \$10 for each employee for every day during which such failure continues, whichever sum is greater, to be recovered in an action brought by the director [of labor and industrial relations] in the name of the State, and the amount so collected shall be paid into the special compensation fund created by section 386-151. The director may, however, in the director's discretion, for good cause shown, remit all or any part of the penalty in excess of [\$25.] \$250, provided the employer in default [forthwith] complies with section 386-121. With respect to such actions, the attorney general or any county attorney or public prosecutor shall prosecute the same if so requested by the director.

[Furthermore,] In addition, if any employer is in default under section 386-121[,] for a period of thirty days, the employer may be enjoined, by the circuit court of the circuit in which the employer's principal place of business is located, from carrying on the employer's business [any place] anywhere in the State so long as the default continues, such action for injunction to be prosecuted by the attorney general or any county attorney if so requested by the director."

SECTION 6. Section 386-129, Hawaii Revised Statutes, is amended to read as follows:

“§386-129 Employees not to pay for insurance; penalty. No agreement by an employee to pay any portion of the premium paid by the employee's employer, or to contribute to a benefit fund or department maintained by the employer, or to the cost of mutual or other insurance maintained for or carried for the purpose of securing compensation as herein required, shall be valid; and any employer who makes a deduction for that purpose from the wages or salary of any employee entitled to the benefits of this chapter shall be fined not more than [\$250.] \$2,500.”

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

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

(Approved May 10, 1988.)

ACT 38

S.B. NO. 2824

A Bill for an Act Relating to the Commission on Employment and Human Resources.

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

SECTION 1. Section 202-2, Hawaii Revised Statutes, is amended to read as follows:

“§202-2 Duties of commission. The advisory commission on employment and human resources shall:

- (1) Identify and assess the past effects and the current and prospective role and pace of technological change;
- (2) Identify and describe the impact of technological and economic change on production and employment, including new job requirements and the major types of worker displacement, both technological and economic, which are likely to occur during the next ten years; the specific industries, occupations, and geographic areas which are most likely to be involved; and the social and economic effects of these developments on the State's economy, labor force, communities, families, social structure, and human values;
- (3) Define those areas of unmet community and human needs toward which application of new technologies might most effectively be directed;
- (4) Recommend specific administrative and legislative steps which it believes should be taken by the state government in meeting its responsibilities (A) to promote occupational training and skill development programs appropriate to the State's needs and resources, (B) to encourage a program of useful research into the State's labor force requirements, development, and utilization, (C) to support and promote technological change in the interest of continued economic growth and improved well-being of the people in this State, (D) to continue and adopt measures which will facilitate occupational adjustment and geographical mobility, and insure full employment, and (E) to explore and evaluate various methods of sharing the cost of preventing and alleviating the adverse impact of change on displaced workers;

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- (5) Create public awareness and understanding of the problems and potentials of the new technologies;
- (6) Submit [an annual report] employment reports with recommendations to the governor and the legislature[.] at least once a year;
- (7) Be the responsible body for planning, reviewing, and evaluating all state and federal employment training programs; and
- (8) Prepare and submit to the governor[, an annual comprehensive statewide employment plan] plans and updates as appropriate in conjunction with the Hawaii state plan."

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

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

(Approved May 10, 1988.)

ACT 39

S.B. NO. 2847

A Bill for an Act Relating to Highway Safety.

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

SECTION 1. Section 286-151, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Any person who operates a motor vehicle or moped on the public highways of the State shall be deemed to have given consent, subject to this part, to a test approved by the director of [transportation] health of the person's breath or blood for the purpose of determining the alcoholic content of the person's blood."

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

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

(Approved May 10, 1988.)

ACT 40

S.B. NO. 2855

A Bill for an Act Relating to the University of Hawaii.

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

SECTION 1. Chapter 304, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§304- Discoveries and inventions revolving fund. There is created a discoveries and inventions revolving fund. The moneys appropriated for fiscal year 1988-89 to the university for the purposes of supporting innovation and research commercialization and the patenting, copyrighting, licensing, and marketing of discoveries, inventions, and technologies developed at the university, and all proceeds from commercial exploitation of inventions and intellectual property developed at the university shall be deposited into the revolving fund. The fund shall be used to develop technologies which have potential commercial value and to support the administration of technology transfer activities at the university."

SECTION 2. Chapter 304, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§304- Annual report. The University of Hawaii shall provide an annual report to the governor and the legislature describing all transactions and activities involved in the administration of the discoveries and inventions revolving fund.”

SECTION 3. New statutory material is underscored.¹

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

(Approved May 10, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

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S.B. NO. 3030

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

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

SECTION 1. Section 88-45, Hawaii Revised Statutes, is amended to read as follows:

“§88-45 Employee contributions. [After June 30, 1965, the normal contribution by each class A and class B member to the annuity savings fund shall be six per cent of the member's compensation; provided that after:

- (1) June 30, 1967, all firefighters, police officers, and investigators of the department of the prosecuting attorney shall contribute ten and four-tenths per cent of their compensation;
- (2) June 30, 1977, all corrections officers shall contribute ten and four-tenths per cent of their compensation; and
- (3) June 16, 1981, investigators of the department of the attorney general shall contribute ten and four-tenths per cent of their compensation.

In addition to the foregoing, all class A and class B members including firefighters, police officers, corrections officers, and investigators of the departments of the prosecuting attorney and of the attorney general shall contribute one and eight-tenths per cent of compensation to the post retirement fund.] After June 30, 1988, each class A and class B member shall contribute seven and eight-tenths per cent of the member's compensation to the annuity savings fund; provided that after June 30, 1988, all firefighters, police officers, corrections officers, and investigators of the departments of the prosecuting attorney and of the attorney general shall contribute twelve and two-tenths per cent of their compensation to the annuity savings fund.”

SECTION 2. Section 88-46, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The head of each state department and the finance director of each county shall cause to be deducted from the salary of each class A or class B member on each and every payroll under his jurisdiction, for each and every payroll period, the percentage of compensation of each member as provided under section 88-45. The total amount of deductions made from the salaries of employees and a record of the amount deducted from each member's compensation shall be transmitted to the system monthly or at such other times as may be agreed upon by the board of

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trustees. The amounts so deducted shall be paid into the annuity savings fund [and the post retirement fund] and shall be credited to the individual [accounts] account of the member from whose compensation the deductions were made. Regular interest shall also be credited to the individual account of the member in the annuity savings fund.”

SECTION 3. Section 88-84, Hawaii Revised Statutes, is amended to read as follows:

“§88-84 Ordinary death benefit. Upon the receipt of proper proofs of a member’s death in service, there shall be paid to the member’s beneficiary, otherwise to the member’s estate, an ordinary death benefit consisting of:

- (1) The member’s accumulated contributions and if no pension is payable under [the provisions of] section 88-85, in addition thereto, and
- [(2)] The member’s contributions to the post retirement fund, and
- (3)] An amount equal to fifty per cent of the compensation earned by the member during the year immediately preceding the member’s death if the member had at least one year but not more than ten full years of credited service, which amount shall increase by five per cent of such compensation for each full year of service in excess of ten years, to a maximum of one hundred per cent of such compensation; provided that if the member had at least one year of credited service, the amount, together with the member’s accumulated contributions shall not be less than one hundred per cent of the compensation.

If the member was eligible for service retirement at the time of the member’s death in service, [and the death occurred after March 1, 1987,] the member’s designated beneficiary, may elect to receive in lieu of any other payments provided in this section, the allowance which would have been payable if the member had retired the day prior to death and had elected to receive [the member’s] a retirement allowance under option 2 of section 88-83.”

SECTION 4. Section 88-107, Hawaii Revised Statutes, is amended to read as follows:

“§88-107 Interest. The board of trustees shall annually allocate the interest and other earnings of the system to the funds of the system, as follows:

- (1) The annuity savings fund shall be credited with the amount of regular interest credited to members’ accounts; and
- [(2)] The mean amount of the preceding year in the post retirement fund shall be credited with interest at the investment yield rate applied in actuarial valuations; and
- (3)] (2) The remaining investment earnings, if any, shall be credited to the pension accumulation fund.

The amounts to be contributed to the pension accumulation fund by the State and counties shall be reduced by any investment earnings in excess of the investment yield rate applied in actuarial valuations. Any additional amount required to meet the investment yield rate for the preceding year shall be paid by the State and counties, and shall be credited to the pension accumulation fund.”

SECTION 5. Section 88-109, Hawaii Revised Statutes, is amended to read as follows:

“§88-109 Funds of the system. The assets of the system are assigned to the following funds hereby created:

- (1) The annuity savings fund;

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- (2) The pension accumulation fund;
- (3) The pension bonus fund;
- [(4) The post retirement fund;
- (5)] (4) The expense fund; and
- [(6)] (5) The minimum pension fund."

SECTION 6. Section 88-112, Hawaii Revised Statutes, is amended to read as follows:

"§88-112 Annuity savings fund; annual statement. The annuity savings fund shall be comprised of the members' accumulated contributions[.], which beginning July 1, 1988, shall include any contributions made by the member to the post retirement fund. A member shall be mailed an annual statement showing the member's accumulated contributions upon request therefor."

SECTION 7. Section 88-122, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) The total unfunded accrued liability as of July 1, [1976,] 1987, shall be fixed at [\$239,000,000,] \$470,000,000, and shall be allocated as follows: [\$32,000,000] \$61,000,000 to police officers, firefighters, and corrections officers, and [\$207,000,000] \$409,000,000 to all other employees. With respect to each of the two groups of employees in subsection (a), the accrued liability contribution for each year after June 30, [1976,] 1988, shall be the level annual payment required to liquidate such unfunded accrued liability over [the remainder of] the period of [fifty] twenty-eight years beginning July 1, [1964.] 1988."

SECTION 8. Section 88-115, Hawaii Revised Statutes, is repealed.

SECTION 9. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 10. This Act shall take effect on July 1, 1988.

(Approved May 10, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 42

S.B. NO. 3037

A Bill for an Act Relating to Motor Vehicles.

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

SECTION 1. Chapter 437B, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§437B- Apprentices and helpers. It shall be unlawful for any motor vehicle mechanic apprentice/trainee or motor vehicle mechanic helper to assist a motor vehicle repair dealer or motor vehicle mechanic unless the apprentice or helper works under the direct supervision of a registered motor vehicle repair dealer or motor vehicle mechanic."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect on October 1, 1988.

(Approved May 10, 1988.)

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Note

1. Edited pursuant to HRS §23G-16.5.

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S.B. NO. 3185

A Bill for an Act Relating to the Exemption of Sales of Alcohol Fuels.

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

SECTION 1. Section 237-27.1, Hawaii Revised Statutes, is amended to read as follows:

“§237-27.1 Exemption of sale of [gasohol.] alcohol fuels.”¹ (a) There shall be exempted from and excluded from the measure of the taxes imposed by this chapter all of the gross proceeds arising from the sale of [gasohol] alcohol fuels for consumption or use by the purchaser and not for resale [from July 1, 1980, to June 30, 1992].

(b) As used in this section, “[“gasohol”] “alcohol fuels” means [a gasoline] neat biomass-derived alcohol liquid fuel or a petroleum derived fuel and alcohol liquid fuel mixture consisting of at least ten volume per cent denatured biomass-derived [ethanol] alcohol commercially usable as a fuel to power aircraft, seacraft, spacecraft, automobiles, or other motorized vehicles.

(c) The director of taxation shall annually submit a written report to the governor and legislature prior to the regular session of the legislature indicating a comparison of the number of gallons and average price per gallon of [gasohol] alcohol fuels and gasoline sold in the State.

(d) The director of taxation shall adopt rules pursuant to chapter 91 necessary to administer this section.”

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

SECTION 3. This Act shall take effect on July 1, 1988.

(Approved May 10, 1988.)

Note

1. So in original.

ACT 44

S.B. NO. 3211

A Bill for an Act Relating to Mental Health.

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

SECTION 1. Section 334-60.6, Hawaii Revised Statutes, is amended to read as follows:

“[§334-60.6] Period of detention. The psychiatric facility may detain a subject for a period of time ordered by the court not to exceed ninety days from date of admission unless sooner discharged by the facility pursuant to section 334-76 or section 334-74. At the end of the ninety-day period the subject shall be discharged automatically except as provided in sections 704-406, 704-411, and 706-607, unless before expiration of the period and by a proceeding initiated pursuant to section 334-60.3 the facility obtains a court order for the subject’s recommitment. Recommitment for a period not to exceed ninety days may not be ordered unless the court determines that the criteria for involuntary hospitalization set forth in

section 334-60.2 continue to exist. If at the end of a recommitment period the court finds that the criteria for involuntary hospitalization set forth in section 334-60.2 continue to exist and are likely to continue beyond ninety days, the court may order recommitment for a period not to exceed one hundred eighty days.

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 2. Section 334-60.7, Hawaii Revised Statutes, is amended to read as follows:

“[§]§334-60.7[]] Notice of intent to discharge. When the administrator 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 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 notice shall be filed with the court and served personally or by certified mail on those persons [which] whom the order of commitment specifies as entitled to receive notice. If no objection is filed within three days of service, the administrator of the psychiatric facility shall discharge or accept the patient[.] for voluntary inpatient treatment. If any person specified as entitled to receive notice files a written objection to discharge[.], or to the patient’s admission to voluntary inpatient treatment on the grounds that the patient is a proper subject for commitment, the court shall conduct a hearing to determine if the patient still meets the criteria for involuntary hospitalization in section 334-60.2. If the 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. If the 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.”

SECTION 3. Section 334-76, Hawaii Revised Statutes, is amended to read as follows:

“§334-76 Discharge from custody. 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, the administrator of a psychiatric facility, pursuant to section 334-60.7, shall 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 and 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.

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.”

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SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved May 10, 1988.)

ACT 45

S.B. NO. 3220

A Bill for an Act Relating to Personal Care Services.

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

SECTION 1. Section 346-64, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The department shall provide, subject to legislative appropriations, personal care services to medical assistance recipients:

- (1) Whose physical disabilities are of a degree that would require placement in an intermediate care facility or skilled nursing facility, if the personal care services were not provided; and
- (2) Who have no responsible relative or friend willing to volunteer assistance in the bathing, dressing, and feeding of the recipient, the performance of toilet and personal hygiene functions by the recipient, and other household tasks.

Personal care services provided under this section shall be funded under the medical assistance program. The department shall provide personal care services in compliance with federal laws and rules."

SECTION 2. New statutory material is underscored.

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

(Approved May 10, 1988.)

ACT 46

S.B. NO. 3231

A Bill for an Act Relating to Public Employment.

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

SECTION 1. Section 76-23, Hawaii Revised Statutes, is amended to read as follows:

"§76-23 Filling vacancy. All vacant civil service positions shall be filled in the manner prescribed in this part or in section 78-1.

Whenever there is a position to be filled, the appointing authority shall request the director of personnel services to submit a list of eligibles. The director shall thereupon certify a list of five or such fewer number as may be available, taken from eligible lists in the following order: first the promotional lists, second the recall lists, third the reemployment lists, and fourth the open-competitive lists; provided that laid-off regular employees shall be placed on an appropriate recall list; provided further that with respect to the eligibles under unskilled classes, the director shall certify all of the eligibles on such list. Where there is more than one vacant position in a class to be filled, the director may certify an additional eligible for each additional vacancy. The director shall submit eligibles in the order that

they appear on the eligible list before applying veterans preference; provided that veterans whose examination scores, after addition of applicable preference, are equal to or exceed the examination score of the [fifth] last eligible certified, shall also be certified; and further provided that if the last [of the five eligibles] eligible to be certified is one of two or more eligibles who have identical examination scores, such two or more eligibles shall be certified notwithstanding the fact that more than five persons are thereby certified to fill a vacancy; and further provided that for each eligible without resident preference certified, a resident who has filed a resident income tax return within the State or who has been claimed as a dependent on such a return, as provided by section 78-1, shall also be certified.

In any case where there are three or more eligibles in one department whose names appear as eligibles on an interdepartmental list, upon the request of the appointing authority of such department such three or more names shall be certified to the appointing authority as eligibles on an intradepartmental eligible list; but where the interdepartmental list has been in existence for more than six months and there are five or more persons in the department qualified for the class, the department may request an intradepartmental promotional examination, in which case the director shall hold either an interdepartmental or an intradepartmental promotional examination. The order in which eligibles are placed on eligible lists shall be fixed by rule. The appointing authority shall make the appointment only from the list of eligibles certified to the appointing authority unless the appointing authority finds no acceptable person on the list certified by the director, in which case the appointing authority shall reject the list and request the director to submit a new list, in which event the director shall submit a new list of eligibles selected in like manner; provided that the appointing authority states reasons in writing for rejecting each of the eligibles on the list previously certified to the appointing authority by the director or, in case of the counties, by the civil service commission. Eligible lists, other than the recall and reemployment lists, shall be effective for one year but this period may be extended by the director.

An appointing authority may fill a vacant position in the authority's department by promoting any regular employee in the department without examination if the employee meets the minimum class qualifications of the position to which the employee is to be promoted, and if the position is in the same or related series as the position held by the employee; provided that when there is no material difference between the qualifications of the employees concerned, the employee with the longest continuous civil service employment within the State or county granting the promotion shall receive first consideration for the promotion.

Any regular employee receiving any such promotion without examination shall be ineligible for a second such promotion without examination prior to such employee having completed one year of satisfactory service in the position to which the employee was so promoted, but the employee may at any time be eligible for a promotion to any position through examination.

An employee filling a permanent position temporarily vacant may be given a permanent appointment to the position if it later develops that the vacancy will be permanent, provided the employee was originally appointed from an appropriate eligible list and the appointing authority certifies that the employee has been performing the duties of the position in a satisfactory manner."

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

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

(Approved May 10, 1988.)

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ACT 47

S.B. NO. 3256

A Bill for an Act Relating to Personnel of the Child Support Enforcement Agency.

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

SECTION 1. The purpose of this Act is to grant permanent civil service status to certain temporary employees in the child support enforcement agency as intended by Act 332, Session Laws of Hawaii 1986. Act 332 transferred all functions and personnel of the judiciary relating to child support enforcement to the department of social services and housing for the period July 1, 1986 to June 30, 1987; and further transferred the child support enforcement agency from the department of social services and housing to the office of the attorney general effective July 1, 1987. Section 25 of Act 332 was intended to grant permanent civil service status to temporary employees of the child support enforcement agency who were transferred under the provisions of the Act. However, the language in section 25 has been found to be insufficient to effectuate that intent. This Act will allow the affected employees to become permanent civil service employees as intended by Act 332.

SECTION 2. Those temporary employees in the child support enforcement agency of the department of the attorney general who were transferred under Act 332, Session Laws of Hawaii 1986, and who remained in the same position in the agency as temporary civil service employees shall be converted to permanent civil service status within the meaning of chapters 76 and 77 of the Hawaii Revised Statutes, without the necessity of examination, and without loss of salary, seniority, prior service credit, any vacation and sick leave credits previously earned, and other rights, benefits, and privileges accorded employees with civil service status, provided that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

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

(Approved May 10, 1988.)

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H.B. NO. 2356

A Bill for an Act Relating to Commercial Employment Agencies.

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

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

"§26H-4 Repeal dates. (a) The following chapters are hereby repealed effective December 31, 1988:

- (1) Chapter 465 (Board of Psychology)
 - (2) Chapter 468E (Board of Speech Pathology and Audiology)
 - (3) Chapter 468K (Travel Agencies)
 - [4] Chapter 373 (Commercial Employment Agencies)
 - [5] (4) Chapter 442 (Board of Chiropractic Examiners)
 - [6] (5) Chapter 448 (Board of Dental Examiners)
 - [7] (6) Chapter 436E (Board of Acupuncture)
- (b) The following chapters are hereby repealed effective December 31, 1989:

- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448E (Board of Electricians and Plumbers)
- (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
- (4) Chapter 466 (Board of Public Accountancy)
- (5) Chapter 467 (Real Estate Commission)
- (6) Chapter 439 (Board of Cosmetology)
- (7) Chapter 454 (Mortgage Brokers and Solicitors)
- (8) Chapter 454D (Mortgage and Collection Servicing Agents)
- (c) The following chapters are hereby repealed effective December 31, 1990:
 - (1) Chapter 447 (Dental Hygienists)
 - (2) Chapter 453 (Board of Medical Examiners)
 - (3) Chapter 457 (Board of Nursing)
 - (4) Chapter 458 (Board of Dispensing Opticians)
 - (5) Chapter 460J (Pest Control Board)
 - (6) Chapter 462A (Pilotage)
 - (7) Chapter 438 (Board of Barbers)
- (d) The following chapters are hereby repealed effective December 31, 1991:
 - (1) Chapter 448H (Elevator Mechanics Licensing Board)
 - (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
 - (3) Chapter 457B (Board of Examiners of Nursing Home Administrators)
 - (4) Chapter 460 (Board of Osteopathic Examiners)
 - (5) Chapter 461 (Board of Pharmacy)
 - (6) Chapter 461J (Board of Physical Therapy)
 - (7) Chapter 463E (Podiatry)
- (e) The following chapters are hereby repealed effective December 31, 1992:
 - (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
 - (2) Chapter 437B (Motor Vehicle Repair Industry Board)
 - (3) Chapter 440 (Boxing Commission)
- (f) The following chapters are hereby repealed effective December 31, 1993:
 - (1) Chapter 441 (Cemetery and Funeral Trusts)
 - (2) Chapter 443B (Collection Agencies)
 - (3) Chapter 452 (Board of Massage)
 - (4) Chapter 455 (Board of Examiners in Naturopathy)
 - (5) Chapter 459 (Board of Examiners in Optometry)
- (g) The following chapter is hereby repealed effective December 31, 1994:

(1) Chapter 373 (Commercial Employment Agencies)

[(g)] (h) The following chapters are hereby repealed effective December 31,

1997:

- (1) Chapter 463 (Board of Private Detectives and Guards)
- (2) Chapter 471 (Board of Veterinary Examiners)."

SECTION 2. Section 373-10, Hawaii Revised Statutes, is amended to read as follows:

"§373-10 Fees. (a) Each employment agency shall file at least once a year with the director a schedule[, which may not be changed more than once during each calendar year,] of its placement fees to be charged to applicants[.] at such time and in the manner and form as prescribed by the director. The director shall annually compile a listing of the fees charged by all commercial employment agencies licensed under this chapter and make such list available to the general public at the department.

(b) The schedule, or change of schedule shall become effective upon approval

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of the director; provided that the director shall approve or disapprove within sixty days after the schedule[, or change of schedule,] is filed.

(c) Any contract between an applicant and the employment agency shall be in writing and shall contain [in]:

- (1) In bold print enclosed within a conspicuous border, the gross amount of the estimated fee charged and the time period on which the fee is based[.];
- (2) A statement indicating that the fees charged are in accordance with the fees filed with the department and that a listing of the fees charged to applicants by all commercial employment agencies licensed in the State is available for public inspection;
- (3) A prominently displayed statement that no fee shall be paid until the job applicant obtains employment and receives the first paycheck, provided that this shall not apply to employer fee paid placements;
- (4) The name and license number of the commercial employment agency; and
- (5) A statement that the applicant has the right to have the agency produce for review a copy of the law and rules regulating the practices of commercial employment agencies.

A copy of the contract shall be provided to the applicant. The director may adopt rules pursuant to chapter 91 to prescribe the form and content of the contract.

(d) No employment agency shall charge to or collect from any applicant a registration fee or advance payment for services to be rendered in finding employment.

(e) It shall be a violation of this chapter for an employment agency to charge, demand, or collect any registration fee or advance payment for services from an applicant, or any fee which is greater than the applicable fee listed in the schedule which it has filed with the director.”

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

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

(Approved May 10, 1988.)

ACT 49

H.B. NO. 2878

A Bill for an Act Relating to Insurance.

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

SECTION 1. Act 347, Session Laws of Hawaii 1987, section 2 is amended by amending section 431:10-202 to read as follows:

“§431:10-202 Definitions. For purposes of this part:

(a) Insurable interest includes only interests as follows:

- (1) In the case of individuals related closely by blood or by law, a substantial interest engendered by love and affection.
- (2) In the case of other persons, a lawful and substantial economic interest in having the life, health or bodily safety of the individual insured continue, as distinguished from an interest which would arise only by, or would be enhanced in value by, the death, disablement, or injury of the individual insured.

- (3) An individual party to a contract or option for the purchase or sale of an interest in a business partnership or firm, or of shares of stock of a close corporation or of an interest in such shares, has an insurable interest in the life of each individual party to the contract and for the purposes of the contract only, in addition to any insurable interest which may otherwise exist as to the life of the individual.
- (4) A charitable organization as defined in section 467B-1 and registered under section 467B-2 has an insurable interest in the life of each proposed insured who joins with said organization in applying for a life insurance policy naming said organization as owner and irrevocable beneficiary.

(b) Policy means the written instrument in which a contract of insurance and any endorsement or addendum thereto is set forth."

SECTION 2. New statutory material is underscored.

SECTION 5.¹ This Act shall take effect upon its approval.

(Approved May 10, 1988.)

Note

1. So in original.

ACT 50

H.B. NO. 3295

A Bill for an Act Relating to Mortgage Loans.

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

SECTION 1. Section 207-14, Hawaii Revised Statutes, is amended to read as follows:

"§207-14 Filing and effect of statement. (a) Before engaging in this State in any of the activities specified in section 207-13, a foreign lender shall execute and file with the [director of commerce and consumer affairs] commissioner of financial institutions a statement. The statement shall list its name, state of incorporation or organization, and principal place of business, shall certify that its principal activities are conducted outside this State, and shall appoint irrevocably the [director] commissioner and the [director's] commissioner's successors its agents upon whom may be served process against it on any proceeding or cause of action arising out of its engaging in this State in any of the activities referred to in section 207-13. Until the statement is filed the immunities provided by this part do not become operative. Upon the filing of the statement and after a determination by the [director] commissioner that the foreign lender qualifies for exemption under this part, the immunities provided by this part shall continue operative until the statement is withdrawn by the foreign lender or canceled by the [director] commissioner pursuant to section 207-15, but no such withdrawal or cancellation shall retroactively affect or impair any of the immunities provided by this part.

(b) The statement filed pursuant to this section shall be accompanied by a registration fee of \$30. The registration fee shall be non-refundable even in the event of a denial. In addition, foreign lenders who are currently registered pursuant to this chapter shall pay an annual renewal fee of \$30 in order to maintain the immunities and privileges granted in this section. The annual renewal fee shall be due on or before June 30, of each calendar year. The failure to submit the annual renewal fee as required shall result in the automatic cancellation of any statements

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filed pursuant to this section but shall not retroactively affect or impair any of the immunities provided by this part. The commissioner may, in his discretion, extend the time period for filing of a renewal fee for an additional 30 days beyond June 30 of each calendar year if good cause exists for such an extension.”

SECTION 2.¹ Section 207-15, Hawaii Revised Statutes, is amended to read as follows:

“§207-15 Cancellation of statement. (a) If after notice and hearing as hereinafter provided, the [director of commerce and consumer affairs] commissioner of financial institutions shall determine that any foreign lender having on file a statement as provided in section 207-14, (1) maintains an office in this State, (2) conducts its principal activities in this State, or (3) is or was formed or availed of by or for the account or benefit, directly or indirectly, of one or more residents of, corporations organized under the laws of, or employee benefit plans organized or having their principal offices in, this State with a view to avoiding the imposition of any taxes imposed by this State, the [director] commissioner shall by order cancel the foreign lender's statement.

(b) [In giving notice of and conducting hearings, and in making and entering orders, pursuant to subsection (a), the director shall have all of the powers conferred upon the director as the insurance commissioner by, and shall observe and comply with, and the hearings shall be conducted at the time or times and in the manner specified in, and subject in all respects to, sections 431-51, 431-53, 431-60 (exclusive of subsection (c) of section 431-60), and 431-62 to 431-67. Appeals from orders made and entered pursuant to subsection (a) may be taken at the time and in the manner and to the courts provided in, and shall in all respects be subject to sections 431-68 to 431-71, 431-72(a) and (b), and 431-73.] In giving notice of and conducting hearings, and in making and entering orders, pursuant to subsection (a), the commissioner shall comply with the provisions set forth in chapter 91.”

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

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

(Approved May 10, 1988.)

Note

1. Section designation renumbered.

ACT 51

H.B. NO. 3338

A Bill for an Act Relating to Unfair or Deceptive Acts or Practices in Trade or Commerce.

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

SECTION 1. Section 480-2, Hawaii Revised Statutes, is amended to read as follows:

“§480-2 Unfair competition, practices, declared unlawful. (a) Unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are unlawful.

(b) In construing this section, the courts and the office of consumer protection

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shall [be guided by] give due consideration to the rules, regulations, and decisions of the Federal Trade Commission and the federal courts interpreting section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)), as from time to time amended.

(c) No showing that the proceeding or suit would be in the public interest (as these terms are interpreted under section 5(b) of the Federal Trade Commission Act) is necessary in any action brought under this section.

(d) No person other than a consumer, the attorney general or the director of the office of consumer protection may bring an action based upon unfair or deceptive acts or practices declared unlawful by this section."

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

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

(Approved May 10, 1988.)

ACT 52

H.B. NO. 3486

A Bill for an Act Relating to Oaths.

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

SECTION 1. Section 121-24, Hawaii Revised Statutes, is amended to read as follows:

"§121-24 [False] Oaths and affirmations; false swearing; perjury. (a) All commissioned officers of the army or air national guard shall have the power to administer oaths and affirmations in all matters pertaining to or concerning military service or property, but in no case shall they charge any fee therefor. Any person who falsely swears or affirms to any oath or affirmation so administered may be tried before any circuit court, and, upon conviction, shall be deemed guilty of perjury and sentenced for such offense as prescribed by law.

(b) For purposes of initial entry into the Hawaii national guard, any commissioned officer of the active or reserve components of any of the armed forces of the United States shall have the power to administer appropriate oaths and affirmations."

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

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

(Approved May 10, 1988.)

ACT 53

H.B. NO. 3487

A Bill for an Act Relating to the Hawaii Code of Military Justice.

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

SECTION 1. Section 124A-163, Hawaii Revised Statutes, is amended to read as follows:

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"[§124A-163]] Sections to be explained. Sections 124A-2, 124A-3, 124A-11, 124A-21, 124A-44, 124A-46, 124A-62, 124A-81, 124A-111 to 124A-153, and 124A-163 to 124A-165 shall be carefully explained to every enlisted member at the time of the member's enlistment or transfer or induction into, or at the time of the member's order to duty in or with any of the state military forces or within [thirty] ninety days thereafter. They shall also be explained annually to each unit of the state military forces. A complete text of this chapter and of the rules adopted by the governor thereunder shall be made available to any member of the state military forces, upon the member's request, for the member's personal examination."

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

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

(Approved May 10, 1988.)

ACT 54

S.B. NO. 2486

A Bill for an Act Relating to the Grant of a Franchise for the Island of Lanai to Maui Electric Company, Limited.

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

SECTION 1. A franchise for the island of Lanai, State of Hawaii, is granted to Maui Electric Company, Limited, to read in its entirety as follows:

FRANCHISE

Section 1. Definitions. The following words, wherever they are used or appear in this franchise, shall be construed to mean and be held to have the force and effect as follows:

"Corporation" shall mean, include, and represent Maui Electric Company, Limited, as a body corporate under that or any other name as the company and its successors and assigns may adopt hereafter.

"Public utilities commission" shall mean and include any officer, board, or commission authorized or empowered to regulate public utilities under chapter 269, Hawaii Revised Statutes, or any amendments thereto.

Section 2. Franchise. The corporation is granted the right, authority, and privilege to manufacture, sell, furnish, and supply electric light, electric current, or electric power on the island of Lanai, State of Hawaii, for lighting the streets, roads, public and private buildings, and property, or for motive power, or for any other purpose that it may deem advisable, and from time to time for the purposes stated in this section to construct, maintain, and operate suitable poles, lines, wires, cables, lamps, lamp posts, conductors, conduits, and any other appliances and appurtenances as from time to time may be necessary or convenient for the transmission, distribution, or supply of electricity to consumers thereof, under, along, upon, and over public rights-of-way, including but not limited to the streets, sidewalks, roads, squares, bridges, alleys, and lanes on that island, and to connect those wires, lines, and conductors with any manufactory, private or public buildings, lamps, lamp posts, or other structure or object and the place or source of supply provided that the proposed installation meets standards prescribed by the public utilities commission governing such installation.

Section 3. Rules. The council of the county of Maui is authorized to make and from time to time to change, amend, or add to reasonable rules regulating, within the island of Lanai, the placing of poles and wires, the insulation of wires and apparatus carrying electric current, the excavation of conduits, and the maintenance in good repair of all poles, wires, and apparatus, and generally concerning the manufacture and supply of electricity that may be necessary or proper for the public safety and welfare. If at any time the corporation, after reasonable notice given to it in writing, shall fail to observe or execute the rules as provided relative to the placing of poles and wires, the insulation of wires and apparatus carrying electric current, and the repair of all poles and appliances, the council of the county of Maui, after giving the corporation reasonable notice thereof in writing of its intention so to do, may proceed to enforce rules regulating the placing of poles and wires, the insulation of wires and apparatus carrying electric current, the excavation of conduits, and the maintenance in good repair of all poles, wires, and apparatus and to make whatever repairs as may be necessary to enforce the rules; and the actual cost thereof may be recovered from the corporation by the county of Maui.

Section 4. Poles not to interfere with streets. All poles, lines, wires, cables, lamps, lamp posts, conductors, conduits, and other apparatus constructed, maintained, or operated under, along, upon, or over the streets, sidewalks, roads, squares, bridges, alleys, and lanes on the island shall be so constructed, maintained, and operated by the corporation as not to interfere unnecessarily with the use of the streets, sidewalks, roads, squares, bridges, alleys, and lanes by the public.

Section 5. Plant subject to inspection. The entire plant, corporation, books, and accounts of the corporation shall be subject at all times to the inspection of the public utilities commission and the treasurer of the county of Maui.

Section 6. Meters and rates. The corporation shall have the right to maintain, operate, and use electric meters or other means of measuring electric light, power, or current supply from time to time and to locate the same at whatever places may be necessary for determining the current supplied or to be supplied by the corporation. The corporation shall have the right to charge, receive, and collect from all consumers of electricity those reasonable rates as from time to time may be fixed and determined by the public utilities commission.

Section 7. Extensions of lines and charges for making connections. The public utilities commission may order the corporation to make extensions of its service lines whenever it appears that the extension is a public necessity and that the total plant of the corporation, including the extension or extensions, can earn a reasonable profit on the cost and maintenance of the extension or extensions.

Section 8. Charges for making connections. The corporation shall have the right, subject to the approval of the public utilities commission, to charge consumers or applicants for the use of electricity for the cost and expense of making connections between the nearest line of supply and the premises where the electricity is to be used. The cost and expense shall include the price of all wires, poles, insulators, and other materials and labor necessary to be used in making the connections. The reasonableness of the charges, upon the application of any party in the interest, shall be subject to the approval of the public utilities commission.

Section 9. Rights to acquire property, limits. The corporation shall have the right to acquire, hold, or take over, either by purchase or lease, property, both real or personal or mixed, as may be necessary for or incidental to the proper conduct of its business; provided the corporation shall not have the power or right to acquire the franchise or property of any other public utility company, except with the approval of the public utilities commission.

Section 10. Power to borrow money and bonds. Whenever from time to time it shall be expedient in the furtherance of the objects of the corporation, the corporation shall have the power to borrow money and secure the payment thereof, with interest agreed upon, by mortgage of all or any part of its property and this franchise; or if it is advisable, bonds may be issued, secured by deed of trust of property and this franchise as aforesaid together with all future acquired property and franchises, the income and receipts of the property and franchises, as well as the income and receipts of the property from whatever sources derived, in whatever form and under whatever terms as the corporation may consider advisable; provided however, that nothing contained in this section shall operate to prevent the corporation from obtaining the usual business credits or making promissory notes without security.

Section 11. Franchise not exclusive. Nothing contained in this franchise shall be construed to grant to the corporation an exclusive right to furnish, sell, or supply electric current for light and power.

Section 12. Forfeiture of franchise. If the corporation, its representatives, successors, and assigns shall fail or refuse to do, or perform, or comply with any of the provisions of this franchise or the laws of the State, and continue to refuse or fail to perform or comply therewith after reasonable notice given by the public utilities commission to comply therewith, the public utilities commission, with the consent of the governor and of the attorney general, may cause proceedings to be instituted before any appropriate tribunal to have this franchise and all rights and privileges accruing under the franchise forfeited and declared void.

Section 13. Rules to enforce rates. The corporation shall have the right to discontinue or cut off the supply of electricity to any consumer who refuses to pay the amount due for electricity supplied by the corporation within a reasonable time, as the corporation may fix by general rules for the payment of amounts due, and the discontinuance of service or supply of electricity shall not be a bar to or prejudice the rights of the corporation in any remedy or remedies now or that may be authorized by law for the recovery and collection of the amount due.

Section 14. Eminent domain. The corporation shall continue to have the power of eminent domain pursuant to chapter 101, Hawaii Revised Statutes, or any amendments thereto and may continue to exercise the power; provided that prior to the exercise of the power:

- (1) The corporation submits to the public utilities commission its intention to exercise the power, with a description of the property to be condemned;
- (2) The public utilities commission finds that the proposed condemnation is in the public interest, that the proposed condemnation is necessary, and that the corporation will use the property for its operations as a public utility.

Section 15. Annual statement, payment to government. Within one month after the expiration of each calendar year, the corporation shall file with the treasurer of the county of Maui a detailed statement, showing all of its receipts and expenditures during the preceding calendar year, and at that time, shall pay to the treasurer of the county of Maui, for and on behalf of the county, two and one-half per cent of the gross receipts of the corporation from all electric current or power furnished to consumers on the island of Lanai during the preceding year; and all its books, papers, records, and accounts shall be open to inspection at all reasonable times by the treasurer of the county and the treasurer's respective agents appointed for that purpose. The payment by the corporation to the treasurer of the county of

Maui under this section shall be in lieu of any other payment that the corporation may be required to pay to the treasurer of the county of Maui based on gross receipts of the corporation from electric current or power furnished to consumers on the island of Lanai under any other franchise held by the corporation.

Section 16. Regulation. The corporation shall have all the powers and be subject to all of the liabilities provided by law for corporations and shall be subject in all respects to all laws relating to public utilities and all laws as may be applicable from time to time to electric light and power companies or the persons or corporations operating them; provided, however, that from every ruling, decision, and order, an appeal shall lie as provided by law.

Section 17. Amendment and repeal of franchise. This franchise may be amended or repealed at any time by the legislature.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 10, 1988.)

ACT 55

S.B. NO. 2569

A Bill for an Act Relating to Credit Card Offenses.

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

SECTION 1. Section 708-8100, Hawaii Revised Statutes, is amended by amending subsections (2) and (3) to read as follows:

"[§]§708-8100[]] Fraudulent use of a credit card. (1) A person commits the offense of fraudulent use of a credit card, if with intent to defraud the issuer, or another person or organization providing money, goods, services, or anything else of value, or any other person, the person:

- (a) Uses or attempts or conspires to use, for the purpose of obtaining money, goods, services, or anything else of value a credit card obtained or retained in violation of section 708-8102 or a credit card which the person knows is forged, expired, or revoked;
- (b) Obtains or attempts or conspires to obtain money, goods, services, or anything else of value by representing without the consent of the cardholder that the person is the holder of a specified card or by representing that the person is the holder of a card and such card has not in fact been issued; or
- (c) Uses or attempts or conspires to use a credit card number without the consent of the cardholder for the purpose of obtaining money, goods, services, or anything else of value.

(2) Fraudulent use of a credit card is a class C felony if the value of all money, goods, services, and other things of value obtained or attempted to be obtained exceeds [\$500] \$300 in any six-month period.

(3) Fraudulent use of a credit card is a misdemeanor, if the value of all money, goods, services, and other things of value obtained or attempted to be obtained does not exceed [\$500] \$300 in any six-month period.

(4) Knowledge of revocation of a credit card shall be presumed to have been received by a cardholder four days after it has been mailed to the cardholder at the address set forth on the credit card or at the last known address by registered or certified mail, return receipt requested, and, if the address is more than five hundred miles from the place of mailing, by air mail. If the address is located

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outside the United States, Puerto Rico, the Virgin Islands, the Canal zone, and Canada, notice shall be presumed to have been received ten days after mailing by registered or certified mail."

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

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

(Approved May 10, 1988.)

ACT 56

S.B. NO. 2641

A Bill for an Act Relating to Water Pollution.

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

SECTION 1. Section 342-32, Hawaii Revised Statutes, is amended to read as follows:

"§342-32 Powers and duties, specific. (a) In addition to any other power or duty prescribed by law and in this part, the director shall prevent, control, and abate water pollution in the State. In the discharge of this duty, the director may:

- (1) Establish by rule water quality standards, effluent standards, treatment and pretreatment standards, and standards of performance for specific areas and types of discharges in the control of water pollution, thereby allowing for varying local conditions;
- (2) Appoint a master or masters to conduct investigations and hearings;
- (3) Consult with and advise any person engaged or intending to be engaged in any business or undertaking whose waste, sewage, or drainage is polluting or may tend to pollute state waters;
- (4) Conduct and supervise research programs for the purpose of determining the causes, effects, and hazards of water pollution, the [purity and potability] quality of the receiving water and the means to monitor the quality of water, or to effect the proper disposal of sewage, drainage, and waste;
- (5) Conduct and supervise state educational and training programs on water pollution prevention, control, and abatement, including the preparation and distribution of information relating to water pollution;
- (6) Consult and advise persons intending to alter or to extend any system of drainage, sewage, or water supply;
- (7) Require complete and detailed plans or reports, on existing works, systems, or plants, and of any proposed addition to, modification of or alteration of any such works, system, or plant which contains the information requested by the director in the form prescribed by the director; which plans or reports shall be made by a competent person acceptable to the director and at the expense of such applicant or owner;
- (8) With the approval of the governor, cooperate with, and receive money from the federal government, or any political subdivision of the State or from private sources for the study and control of water pollution;
- (9) Receive or initiate complaints of water pollution, hold hearings in connection with water pollution, and institute legal proceedings in the name of the State for the prevention, control, or abatement of water pollution;

- (10) Require the owner or operator of any effluent source or any discharger of effluent to (A) establish and maintain records; (B) make reports; (C) install, use, and maintain monitoring equipment or methods; (D) sample effluent and state waters; and (E) provide such other information as the department may require;
- (11) Require any permittee or holder of a variance or person subject to pretreatment requirements to permit the director or the director's authorized representative upon the presentation of the director's or representative's credentials:
 - (A) To enter upon permittee's or variance holder's premises or premises of a person subject to pretreatment requirements in which an effluent source is located or in which any records are required to be kept under the terms and conditions of the permit or variance or pretreatment requirements;
 - (B) To inspect any monitoring equipment or method required in the permit or variance or by pretreatment requirements; and
 - (C) To sample any discharge of pollutants or effluent;
- (12) Publish annual reports on the quality of the state waters, which annual report shall include, but not be limited to:
 - (A) A description of sampling programs and quality control methods procedures;
 - (B) Statistical analysis and interpretation of the data on an annual basis by specific points (monitoring stations);
 - (C) Discussion of the results of these analyses to the extent that the implications can be understood by the general public;
 - (D) Recommendations for the modification of the water quality monitoring program to enhance its effectiveness for maintaining high standards of water quality in the State; and
 - (E) A note of any significant changes in the quality of state waters; and
- (13) Act as a certifying agency, as defined in 40 C.F.R. 121.1(e) (1985).
 - (b) In addition to the powers and duties in subsection (a), the director may test any water and aquatic and other life that has been subjected to an oil spill or any other form of water pollution and assess the environmental effects of the pollution, including its effects on:
 - (1) The quality of the receiving water; and
 - (2) Aquatic and other life.

If the department determines that the effects are such that it would be hazardous to consume the aquatic or other life, the department shall immediately notify the public of that hazard through the news media and by posting warning signs in the areas where the water and shoreline contain aquatic or other life that would be hazardous to consume."

SECTION 2. New statutory material is underscored.

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

(Approved May 10, 1988.)

ACT 57

S.B. NO. 2726

A Bill for an Act Relating to Solid Waste Processing and Disposal and Electric Generating Facilities of Counties and the Sale and Leaseback Thereof.

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

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SECTION 1. The legislature hereby finds and determines that the protection of the environment of this State is a matter of statewide concern; that federal and state environmental regulations and rules have increased the costs of proper and environmentally safe processing and disposal of solid waste; that the ability of counties to finance the costs of construction and operation of facilities for the processing and disposal of solid waste is burdensome; that it is in the best interests of all state residents to have costs of construction and operation of facilities for the processing and disposal of solid waste financed for or at the lowest possible amount or rate; that the lowest interest rate on capital to finance the costs of construction of facilities for the processing and disposal of solid waste can be obtained through the issuance of general obligation bonds by the county; that existing provisions of federal law create tax incentives for private investors to acquire facilities for the processing and disposal of solid waste and this acquisition can result in a reduction to the county of the costs of facilities for the processing and disposal of solid waste; that the sale by a county of a facility for the processing and disposal of solid waste and the generation of electric energy in order to transfer federal tax benefits to the purchaser will not deprive that county of the availability of the facility for the processing and disposal of solid waste in that county and, accordingly, the facility will continue to constitute a public undertaking, improvement, or system, and the financing thereof will continue to constitute a public purpose for which the county may issue its bonds and expend moneys.

The purpose of this Act is to amend section 46-19.1, Hawaii Revised Statutes, to provide for the sale and leaseback of a facility for the processing and disposal of solid waste and the generation of electric energy financed from the proceeds of general obligation bonds issued under that section and chapter 47, Hawaii Revised Statutes, in order to realize the benefits and savings to the counties associated with the transaction, and to facilitate the sale so as to maximize benefits and savings.

SECTION 2. Chapter 237, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated to read as follows:

“§237- Solid waste processing, disposal, and electric generating facility; certain amounts exempt. (a) Any provision of the law to the contrary notwithstanding, there shall be exempted from, and excluded from the measure of, the taxes imposed by this chapter all of the amounts enumerated in subsection (b) arising from a transaction involving a sale and leaseback of a solid waste processing, disposal, and electric generating facility entered into by a political subdivision of the State under section 46-19.1 where the facility is owned or under construction by the subdivision before the effective date of this section.

(b) Amounts are exempted or excluded from taxation under this chapter only to the extent that they:

- (1) Are received by an operator of a facility under an operating contract with a political subdivision, where the:
 - (A) Operator, or its successor, entered into an operating contract prior to the effective date of this section;
 - (B) Operator enters into a lease of the facility from the owner at a time that coincides with the time the owner and the political subdivision entering into a sale and leaseback transaction; and
 - (C) Amounts are used by the operator to make rental payments to the owner;
- (2) Are received as rental payments by the owner of the facility from the operator of the facility;

- (3) Do not exceed the payments made by the owner of the facility under the sale and leaseback transaction to the political subdivision; and
- (4) In no case exceed debt service costs incurred by the political subdivision for the construction of the facility.

(c) For the purposes of this section:

“Debt service costs” means payments of principal and interest on general obligation bonds issued at any time by a political subdivision for the construction of the facility.

“Sale and leaseback” means a transaction in which a facility is sold by a political subdivision to a private entity for cash, under an installment sale, a financing lease, or similar arrangement, or any combination thereof, where the political subdivision has the right to repurchase the facility at a later date, and where the facility is leased to an operator of the facility.

“Solid waste processing, disposal, and electric generating facility” or “facility” means a facility for the processing and disposal of solid waste or the generation of electric energy, or both, the construction of which has been financed pursuant to section 47-2.1 and constitutes an undertaking as defined in section 49-1.

“Operator” means a private entity who enters into an agreement or other arrangement with the owner of a solid waste processing, disposal, and electric generating facility for the purpose of operating such facility for a political subdivision of the State.

“Owner” means any person who purchases a solid waste processing, disposal, and electric generating facility under section 46-19.1.”

SECTION 3. Section 46-19.1, Hawaii Revised Statutes, is amended to read as follows:

“[§46-19.1] Facilities for solid waste processing and disposal and electric generation; financing[.] sale. (a) In addition to any other powers provided by law, any county may issue general obligation bonds to finance a facility for the processing and disposal of solid waste, or generation of electric energy, or both, pursuant to section 47-2.1, and provide for interest on [such] the bonds which will accrue during the construction period. Any such facility shall be and constitute an undertaking as defined in section 49-1, and all revenues derived from the services and commodities furnished by [such] the undertaking, including the disposal of solid waste and the sale of steam and electric energy and recovered materials, shall constitute revenues of [such] the undertaking.

Any law to the contrary notwithstanding, and particularly section 47-7, bonds issued pursuant to this section to finance a facility for the processing and disposal of solid waste,¹ or generation of electric energy, or both[,] may be sold at competitive or negotiated sale at [such] whatever price or prices, may bear interest at [such] whatever rate or rates payable at [such] whatever time or times, and may be made redeemable before maturity at the option of the county, the holder, or both[,] at [such] whatever price or prices and upon [such] whatever terms and conditions[, all] as the governing body of the county or, if authorized by the governing body of the county, the director of finance may determine.

If bonds issued pursuant to this section for the processing and disposal of solid waste and generation of electric energy are issued bearing interest at rates which vary from time to time and with a right of the holders to put [such] the bonds, all as provided in the proceedings authorizing the issuance thereof, any county may contract for [such] support [facility or] facilities and remarketing arrangements as are required to market [such] the bonds to the greatest advantage of the county upon such terms and conditions as the governing body of the county

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shall approve by resolution. The county may enter into [such] contracts or agreements with the entity or entities providing a support facility as aforesaid as the governing body of the county shall approve by resolution; provided that any [such] contract or agreement shall provide, in essence, that any amounts due and owing by the county under [such] the contract or agreement on an annual basis shall be subject to annual appropriations by the county, and any obligation issued pursuant to the terms of [such] the contract or agreement in the form of bonds, notes, or other evidences of indebtedness shall [only] arise [at such time as] only when moneys or securities have been irrevocably set aside for the full payment of a like principal amount of bonds issued pursuant to this section. The selection of entities to provide a support facility or to remarket bonds may be in such manner and upon such terms and conditions as the governing body shall approve by resolution.

(b) If the governing body of the county shall find that the sale of a facility for the processing and disposal of solid waste, or generation of electric energy, or both will not deprive the county of the availability of the facility and will result in a reduction to the county of the costs of the facility, any law to the contrary notwithstanding, any county may sell a facility financed pursuant to this section at competitive or negotiated sale at such price and upon such terms and conditions as the governing body shall approve by resolution. The sale may be pursuant to an installment sales contract or such other form of agreement as the governing body shall approve by resolution. A facility sold as authorized by this subsection shall continue to constitute a public undertaking as provided in subsection (a), and the proceeds of such sale shall constitute revenues derived from the services and commodities furnished by the undertaking.

(c) A county may lease any facility sold as authorized by this section or enter into an operating agreement or other arrangement with the purchaser or a lessee of the purchaser of the facility upon such terms and conditions as the governing body shall approve by resolution. So long as a facility sold as authorized by this section is available to the county, notwithstanding that availability is conditioned on payment of reasonable fees for the services and commodities furnished thereby, the facility shall be deemed used for a public purpose and payment of the costs of construction shall constitute a purpose for which bonds may be issued as authorized by subsection (a).

(d) Insofar as this section is inconsistent with the provisions of any law or charter, this section shall control. The powers conferred by this section shall be in addition and supplemental to the powers conferred by any other law or charter, and bonds may be issued and a facility financed from the proceeds thereof may be sold as authorized by this section notwithstanding any debt or other limitation prescribed by any other law or charter."

SECTION 4. Statutory material to be replaced is bracketed. New statutory material is underlined.²

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

(Approved May 10, 1988.)

Notes

1. Comma should be underscored.
2. Edited pursuant to HRS §23G-16.5.

ACT 58

S.B. NO. 2764

A Bill for an Act Relating to the Establishment of a Computerized Fingerprint Identification System.

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

SECTION 1. Section 846-2.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The attorney general shall select and enforce systems of identification, including fingerprinting, of all persons arrested for a criminal offense, or persons to whom penal summonses have been issued for a criminal offense and who have been convicted or granted a deferred acceptance of guilty or nolo contendere plea or a conditional discharge, and provide for the collection, recording, and compilation of data and statistics relating to crime.

The several counties shall provide the necessary equipment and the compensation of the persons required to install and carry out the work of [such] the systems of identification and statistics in their respective jurisdictions; provided that [all such] those expenses in connection with [prison] matters exclusively within the control of the State shall be borne by the State[.]; and provided further that the State shall provide for the management and equipment maintenance of the computerized fingerprint identification system.

The systems shall be uniform throughout the State, shall be continuous in operation, and shall be maintained as far as possible in [such] a manner as shall be in keeping with the most approved and modern methods of identification and of the collection and compilation of the statistics.

The attorney general shall keep a uniform record of the work of the courts, prosecuting officers, the police, and other agencies or officers for the prevention or detection of crime and the enforcement of law in a form suitable (1) for the study of the cause and prevention of crime and delinquency and of the efforts made and efficacy thereof to detect or prevent crime and to apprehend and punish violators of law and (2) for the examination of the records of the operations of [such] those officers and the results thereof.”

SECTION 2. Act 380, Session Laws of Hawaii 1987, is amended by amending section 3 to read as follows:

“SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$4.5 million, or so much thereof as may be necessary for fiscal year 1987-1988, for the purpose of this Act[.], but the unexpended and unencumbered balance of the appropriated sum shall not lapse until the close of business on June 30, 1989. The sum appropriated shall be expended by the department of the attorney general for the purposes of this Act.”

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

SECTION 4. This Act shall take effect on June 29, 1988.

(Approved May 10, 1988.)

ACT 59

S.B. NO. 2774

A Bill for an Act Relating to Controlled Substances.

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

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SECTION 1. Section 329-14, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Acetylmethadol;
- [(2) Alfentanil;
- (3) (2) Allylprodine;
- [(4)] (3) Alphacetylmethadol;
- [(5)] (4) Alphameprodine;
- [(6)] (5) Alphamethadol;
- [(7)] (6) Alpha-Methylfentanyl;
- [(8)] (7) Benzethidine;
- [(9)] (8) Betacetylmethadol;
- [(10)] (9) Betameprodine;
- [(11)] (10) Betamethadol;
- [(12)] (11) Betaprodine;
- [(13)] (12) Clonitazene;
- [(14)] (13) Dextromoramide;
- [(15)] (14) Diamprodine;
- [(16)] (15) Diethylthiambutene;
- [(17)] (16) Difenoxin;
- [(18)] (17) Dimenoxadol;
- [(19)] (18) Dimepheptanol;
- [(20)] (19) Dimethylthiambutene;
- [(21)] (20) Dioxaphetyl butyrate;
- [(22)] (21) Dipipanone;
- [(23)] (22) Ethylmethylthiambutene;
- [(24)] (23) Etonitazene;
- [(25)] (24) Etoxeridine;
- [(26)] (25) Furethidine;
- [(27)] (26) Hydroxypethidine;
- [(28)] (27) Ketobemidone;
- [(29)] (28) Levomoramide;
- [(30)] (29) Levophenacylmorphan;
- [(31)] (30) Morpheridine;
- [(32)] (31) Noracymethadol;
- [(33)] (32) Norlevorphanol;
- [(34)] (33) Normethadone;
- [(35)] (34) Norpipanone;
- [(36)] (35) Parahexyl;
- [(37)] (36) Phenadoxone;
- [(38)] (37) Phenampromide;
- [(39)] (38) Phenomorphan;
- [(40)] (39) Phenoperidine;
- [(41)] (40) Piritramide;
- [(42)] (41) Proheptazine;
- [(43)] (42) Properidine;
- [(44)] (43) Propiram;
- [(45)] (44) Racemoramide;
- [(46)] (45) Tilidine;

- [(47)] (46) Trimerperidine;
- [(48)] (47) N-[1-(1-methyl-2-phenyl)ethyl-4-piperidyl]-N-phenylacetamide(acetyl-alpha-methylfentanyl);
- (49)] (48) N-[1-(1-methyl-2-(2-thienyl)ethyl-4-piperidyl]-N-phenylpropanamide (alpha-methylthiofentanyl);
- [(50)] (49) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl);
- [(51)] (50) N-[1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl]-N-phenylpropanamide (beta-hydroxyfentanyl);
- [(52)] (51) N-[3-methyl-1-(2-hydroxy-2-phenyl)-ethyl-4-piperidyl]-N-phenylpropanamide(beta-hydroxy-3-methylfentanyl);
- [(53)] (52) N-[3-methyl-1-(2-(2-thienyl)ethyl-4-piperidyl]-N-phenylpropanamide (3-methylthiofentanyl);
- [(54)] (53) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl);
- [(55)] (54) N-[1-(2-(2-thienyl)ethyl-4-piperidyl]-N-phenylpropanamide (thiofentanyl)."

SECTION 2. Section 329-16, Hawaii Revised Statutes, is amended by amending subsection (c) as follows:

"(c) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Alfentanil;
- [(1)] (2) Alphaprodine;
- [(2)] (3) Anileridine;
- [(3)] (4) Bezipramide;
- [(4)] (5) Bulk Dextropropoxyphene (nondosage form);
- [(5)] (6) Dihydrocodeine;
- [(6)] (7) Diphenoxylate;
- [(7)] (8) Fentanyl;
- [(8)] (9) Isomethadone;
- [(9)] (10) Levomethorphan;
- [(10)] (11) Levorphanol;
- [(11)] (12) Metazocine;
- [(12)] (13) Methadone;
- [(13)] (14) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
- [(14)] (15) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;
- [(15)] (16) Pethidine;
- [(16)] (17) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- [(17)] (18) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- [(18)] (19) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- [(19)] (20) Phenazocine;
- [(20)] (21) Piminodine;
- [(21)] (22) Racemethorphan;
- [(22)] (23) Racemorphan;
- [(23)] (24) Sufentanil."

SECTION 3. 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, com-

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pound, mixture, or preparation which contains 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 which contains any quantity of a derivative of barbituric acid or any salt thereof;
- (4) Chlorexadol;
- (5) Glutethimide;
- (6) Lysergic acid;
- (7) Lysergic acid amide;
- (8) Methyprylon;
- (9) Sulfondiethylmethane;
- (10) Sulfonethylmethane;
- (11) Sulfonmethane[.];
- (12) Tiletamine/Zolazepam (Telazol).

SECTION 4. Section 329-38, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

- “(f) Prescriptions for controlled substances shall be issued only as follows:
- (1) All prescriptions for controlled substances shall be dated as of, and signed on, the day when issued and shall bear the full name and address of the patient, and the name, address, and registration number of the practitioner. A practitioner may sign a prescription in the same manner as he would sign a check or legal document (e.g., J.H. Smith or John H. Smith)[.] and shall use both words and figures (e.g. alphabetically and numerically as indications of quantity such as five (5)) to indicate the amount of controlled substance to be dispensed. Where an oral order is not permitted, prescriptions shall be written with ink or indelible pencil or typewriter and shall be manually signed by the practitioner. The prescriptions may be prepared by a secretary or agent for the signature of a practitioner, but the prescribing practitioner is responsible in case the prescription does not conform in all essential respects to the law and regulations. A corresponding liability rests upon the pharmacist who fills a prescription not prepared in the form prescribed by this section.
 - (2) An intern, resident, or foreign-trained physician, or physician on the staff of a Veterans Administration facility, exempted from registration under this chapter, shall include on all prescriptions issued by him the registration number of the hospital or other institution and the special internal code number assigned to him by the hospital or other institution in lieu of the registration number of the practitioner required by this section. Each written prescription shall have the name of the physician stamped, typed, or handprinted on it, as well as the signature of the physician.
 - (3) An official exempted from registration shall include on all prescriptions issued by him his branch of service or agency (e.g., “U.S. Army” or “Public Health Service”) and his service identification number, in lieu of the registration number of the practitioner required by this section. The service identification number for a Public Health Service employee is his Social Security identification number. Each prescrip-

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tion shall have the name of the officer stamped, typed, or handprinted on it, as well as the signature of the officer.”

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

SECTION 6. This Act shall take effect upon its approval.

(Approved May 10, 1988.)

ACT 60

S.B. NO. 2780

A Bill for an Act Relating to Consumer Protection.

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

SECTION 1. This Act is intended to clarify the administrative relationship between the department of commerce and consumer affairs and the office of consumer protection. It is not intended to alter the day to day activities of the office of consumer protection, nor shall anything in this Act be construed, interpreted, or applied in any way or for any reason to lessen or curtail services, hinder, deter, prevent, or mitigate any investigations begun before, on, or after the effective date of this Act, nor to jeopardize or in any way limit the ability of consumers to obtain full and satisfactory responses to inquiries or complaints or other actions requested and damages due and payable on account of any action taken by the office of consumer protection or its executive director pursuant to this Act or any other law.

SECTION 2. Section 480-14, Hawaii Revised Statutes, is amended to read as follows:

“§480-14 Suits by the State; amount of recovery. (a) Whenever the State, any county, or city and county is injured in its business or property by reason of anything forbidden or declared unlawful by this chapter, it may sue to recover threefold the [] actual [] damages sustained by it.

(b) The attorney general may bring an action on behalf of the State or any of its political subdivisions or governmental agencies to recover the damages provided for by this section, or by any comparable provisions of federal law.

(c) No person other than the attorney general of the State shall be authorized to bring a class action for indirect purchasers asserting claims under this chapter [and the]. The attorney general or the director of the office of consumer protection may bring a class action on behalf of consumers based on unfair or deceptive acts or practices declared unlawful by section 480-2. [Such actions] Actions brought under this section shall be brought as parens patriae on behalf of natural persons residing in this State, to secure compensatory damages for injuries sustained by such natural persons to their property by reason of any violation of this chapter.

(d) If judgment is in favor of the State or any of its political subdivisions or governmental agencies under any provision of this chapter, the attorney general or the director of the office of consumer protection shall be awarded reasonable attorney's fees together with the cost of suit; provided further that in any class action lawsuit brought by the attorney general in behalf of indirect purchasers, the attorney general shall in addition be awarded an amount commensurate with expenses reasonably expected to be expended in distribution of damages [] to [] the indirect purchasers.”

SECTION 3. Section 487-2, Hawaii Revised Statutes, is amended to read as follows:

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“§487-2 Office of consumer protection; director. There is created within the department of commerce and consumer affairs [for administrative purposes] an office of consumer protection. [The head of this office] The director of commerce and consumer affairs shall be the director of the office of consumer protection[.] and may appoint an executive director of the office of consumer protection. The executive director shall have been admitted to practice law before the supreme court of this State and shall be [appointed by the governor without regard to] exempt from chapters 76 and 77.”

SECTION 4. Section 487-4, Hawaii Revised Statutes, is amended to read as follows:

“§487-4 [Salaries;] Salary and duties of executive director; benefits. [Effective January 1, 1986, the salary of the director of the office of consumer protection shall be \$55,404 a year.] The director may define the executive director's powers and duties and fix the executive director's compensation. The executive director and attorney staff members shall be entitled to participate in any employee benefit plan.”

SECTION 5. Section 487-5, Hawaii Revised Statutes, is amended to read as follows:

“§487-5 General functions, powers, and duties [of the office]. The director of the office of consumer protection is designated the consumer counsel for the State and shall represent and protect the State, the respective counties, and the general public as consumers. The director of the office of consumer protection shall have the following functions, powers, and duties:

- (1) Coordinate the consumer protection activities of all departments, divisions, and branches of state government, and of branches of the county government concerned with consumer protection;
- (2) Assist, advise, and cooperate with federal, state, and local agencies and officials to protect and promote the interests of the consumer public;
- (3) Conduct investigations, research, studies, and analysis of matters and take appropriate action affecting the interests of consumers;
- (4) Study the operation of laws affecting consumers and recommend to the governor and the legislature, new laws and amendments of laws in the consumers' interest;
- (5) Adopt rules pursuant to chapter 91 interpreting section 480-2; provided that in adopting rules, due consideration shall be given to the rules, regulations, and decisions of the Federal Trade Commission and the federal courts in interpreting section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)), as from time to time amended;
- (6) Investigate reported or suspected violations of laws enacted[,] and rules [and regulations promulgated] adopted for the purpose of consumer protection and shall enforce such laws[,] and rules[, and regulations] by bringing civil actions or proceedings;
- (7) Organize and hold conferences on problems affecting consumers; and undertake activities to encourage business and industry to maintain high standards of honesty, fair business practices, and public responsibility in the production, promotion, and sale of consumer goods and services;
- (8) Provide a central clearinghouse of information by collecting and compiling all consumer complaints and inquiries and making the collections and compilations available to the general public; provided that consumer compliants may not be made available to the general public if

the office of consumer protection is conducting an investigation or review of the complaints, or if the complaints are being used in connection [with] with civil actions or proceedings initiated by the office of consumer protection, or if the complaints have been referred to another state agency;

- [9) Organize, promote, and conduct consumer education programs within the State;
- (10) (9) Appear before governmental commissions, departments, and agencies to represent and be heard on behalf of consumers' interest;
- [11) (10) Contract with other county, state, or federal governmental agencies, with nonprofit social services societies, or with private nonprofit trade, professional, or business organizations for the performance of any of the functions of the office not involving the enforcement of rules [and regulations] for the purpose of consumer protection under this section, or the extension of any power or authority under section 487-11, within the budget limitations for any period not exceeding a budget year, provided that the purposes and policies of this chapter are in no way diluted, abridged, misdirected, or destroyed; and
- [12) (11) Perform such other acts as may be incidental to the exercise of the functions, powers, and duties set forth in this section, including but not limited to, compensation of witnesses in such amounts and for such purposes as shall be prescribed by rules."

SECTION 6. Section 487-11, Hawaii Revised Statutes, is repealed.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

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

(Approved May 10, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 61

S.B. NO. 2820

A Bill for an Act Relating to Payment of Wages and Other Compensation Law.

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

SECTION 1. Section 388-7, Hawaii Revised Statutes, is amended to read as follows:

"§388-7 Notification, posting, and records. Every employer shall:

- (1) Notify the employer's employees in writing, at the time of hiring of the rate of pay, and of the day, hour, and place of payment;
- (2) Notify the employer's employees in writing or through a posted notice maintained in a place accessible to the employer's employees of any changes in the arrangements specified above prior to the time of such changes;
- (3) Make available to the employer's employees in writing or through a posted notice maintained in a place accessible to the employer's employees policies with regard to vacation¹ and sick leave;

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- (4) Furnish each employee at every payday a legible printed, typewritten, or handwritten record showing the employee's total gross compensation, the amount and purpose of each deduction, total net compensation, date of payment, and pay period covered; and maintain and preserve a copy of such record or its equivalent for a period of at least six years; [and]
- (5) Keep posted in a place accessible to the employer's employees such notices pertaining to the application of this chapter as shall be prescribed by the director of labor and industrial relations[.]; and
- (6) Make and keep records of all employees which shall include basic employment and earnings records; and preserve such records for a period of time and in a manner as the director shall prescribe by rule."

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

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

(Approved May 10, 1988.)

Note

1. Prior to amendment, "pay" appeared here.

ACT 62

S.B. NO. 2838

A Bill for an Act Relating to Water Safety Enforcement.

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

SECTION 1. Section 266-24, Hawaii Revised Statutes, is amended to read as follows:

"§266-24 Enforcement. For the purpose of the enforcement of this chapter and of all rules adopted pursuant to this chapter and the enforcement of title 12, chapter 6E, and chapter 266 and rules adopted thereunder, and chapter 267 and rules adopted thereunder, the powers of police officers are conferred upon the director of transportation and any officer, employee, or representative of the department of transportation, or employee of a county appointed by the director. Without limiting the generality of the foregoing, the director and any person appointed by the director hereunder may serve and execute warrants, arrest offenders, and serve notices and orders. Every state and county officer charged with the enforcement of laws and ordinances shall enforce and assist in the enforcement of this chapter and of all rules adopted pursuant to this chapter and in the enforcement of title 12, chapter 6E, and chapter 266 and rules adopted thereunder, and chapter 267 and rules adopted thereunder."

SECTION 2. New statutory material is underscored.

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

(Approved May 10, 1988.)

ACT 63

S.B. NO. 3209

A Bill for an Act Relating to Environmental Quality.

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

SECTION 1. Section 342-19, Hawaii Revised Statutes, is amended to read as follows:

"§342-19 Effect of laws, ordinances, and rules. (a) All laws, ordinances, and rules inconsistent with this part shall be void and of no effect.

(b) Any county may adopt ordinances and rules governing any matter relating to environmental quality control which is not governed by a rule of the department adopted pursuant to this part; provided that any county ordinance or rule relating to environmental quality control shall be void and of no effect as to any matter regulated by a rule of the department upon the adoption thereof[.] except as provided in subsection (c).

(c) Any county desiring to administer its own laws, ordinances, and rules on the design, construction, and operation of sewerage and treatment facilities may submit to the director a full and complete description of the program it proposes to establish and administer under county law. In addition, the county shall submit a statement from its corporation counsel or county attorney that the laws of the county provide adequate authority and the standards are equal to or more stringent than the standards of the department to carry out the described program. The director shall approve each such submitted program unless the director determines that either adequate authority does not exist or the proposed standards are less stringent than those of the department."

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

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

(Approved May 10, 1988.)

ACT 64

S.B. NO. 2045

A Bill for an Act Relating to Energy Conservation.

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

SECTION 1. The legislature finds that the tax credit authorized by section 235-12.2, Hawaii Revised Statutes, for insulation of hot water heater tanks and hot water pipes expired on December 31, 1984. Therefore, the legislature finds it is timely to repeal this section as functus.

SECTION 2. Section 235-12.2, Hawaii Revised Statutes, is repealed.

SECTION 3. Statutory material to be repealed is bracketed.¹

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

(Approved May 14, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 65

S.B. NO. 2064

A Bill for an Act Relating to Horizontal Property Regimes.

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

SECTION 1. Chapter 514A, Hawaii Revised Statutes, is amended by amending the title to read as follows:

"[HORIZONTAL] CONDOMINIUM PROPERTY REGIMES"

SECTION 2. Sections 237-24, 237D-1, 421H-5, 484-3, 514A-1, 514A-3, 514A-6, 514A-16, 514A-20, 514A-21, 514A-45, 514A-83, 514A-84.5, 514A-94, 514E-9, 521-38, 521-52, and 521-71, Hawaii Revised Statutes, are amended by substituting the terms "condominium property regime", or "Condominium Property Act" for "horizontal property regime" and "Horizontal Property Act" wherever those terms appear.

SECTION 3. This Act shall not affect the validity of any contract, lease, mortgage, deed, agreement-of-sale, or other document which uses the term "horizontal property regime" or like terms.

SECTION 4. 514A-82, Hawaii Revised Statutes, is amended to read as follows:

"§514A-82 Contents of bylaws. (a) The bylaws shall provide for at least the following:

- (1) Board of directors:
 - (A) The election of a board of directors;
 - (B) The number of persons constituting the board; provided that condominiums with more than one hundred individual apartment units shall have an elected board of not less than nine members unless not less than [seventy-five] sixty-five per cent of all apartment owners vote by mail ballot, or at a special or annual meeting, to reduce the minimum number of directors;
 - (C) That for the initial term of office, directors shall serve for a term of three years or the term as specified by the bylaws or until their successors have been elected or appointed;
 - (D) The powers and duties of the board;
 - (E) The compensation, if any, of the directors; and
 - (F) Whether or not the board may engage the services of a manager or managing agent, or both, and specifying which of the powers and duties granted to the board by this chapter or otherwise may be delegated by the board to either or both of them.
- (2) Method of calling meetings of the apartment owners; what percentage, if other than a majority of apartment owners, constitutes a quorum; what percentage is, consistent with this chapter, necessary to adopt decisions binding on all apartment owners and that votes allocated to any area which constitutes a common element under section 514A-13(h) shall not be cast at any association meeting, whether or not it is so designated in the declaration.
- (3) Election of a president from among the board of directors who shall preside over the meetings of the board of directors and of the association of apartment owners.
- (4) Election of a secretary who shall keep the minute book wherein resolutions shall be recorded.

- (5) Election of a treasurer who shall keep the financial records and books of account.
 - (6) Operation of the property, payment of the common expenses, and determination and collection of the common charges.
 - (7) Manner of collecting common expenses, expenses, costs, and fees recoverable by the association under section 514A-94, and any penalties and late charges.
 - (8) Designation and removal of personnel necessary for the maintenance, repair, and replacement of the common elements.
 - (9) Method of adopting and amending administrative rules governing the details of the operation and use of the common elements.
 - (10) The restrictions on and requirements respecting the use and maintenance of the apartments and the use of the common elements, not set forth in the declaration, as are designed to prevent unreasonable interference with the use of their respective apartments and of the common elements by the several apartment owners.
 - (11) The first meeting of the association of apartment owners shall be held not later than one hundred eighty days after recordation of the first apartment conveyance; provided forty per cent or more of the project has been sold and recorded. If forty per cent of the project is not sold and recorded at the end of one year, an annual meeting shall be called; provided ten per cent of the apartment owners so request.
 - (12) All members of the board of directors shall be owners, co-owners, vendees under an agreement of sale, or an officer of any corporate owner of an apartment. The partners in a general partnership and the general partners of a limited partnership shall be deemed to be the owners of an apartment for this purpose. There shall not be more than one representative on the board of directors from any one apartment.
 - (13) A director shall not cast any proxy vote at any board meeting, nor shall a director vote at any board meeting on any issue in which the director has a conflict of interest. [The director shall disclose the nature of the conflict of interest prior to a vote at the board meeting, and the minutes of the meeting shall record the fact that a disclosure was made.]
 - (14) No resident manager of a condominium shall serve on its board of directors.
 - (15) The board of directors shall meet at least once a year.
 - (16) All association and board of directors meetings shall be conducted in accordance with the most current edition of Robert's Rules of Order.
 - (17) All meetings of the association of apartment owners shall be held at the address of the condominium project, or elsewhere within the State as determined by the board of directors.
 - (18) Penalties chargeable against persons for violation of the covenants, conditions, or restrictions set forth in the declaration, or of the bylaws and administrative rules adopted pursuant thereto, method of determination of violations, and manner of enforcing penalties, if any.
- (b) In addition to the requirements of subsection (a) the bylaws shall provide

for:

- (1) The method of removal from office of directors; that at any regular or special meeting of the apartment owners, any one or more members of the board of directors may be removed by the apartment owners and successors shall then and there be elected for the remainder of the term to fill the vacancies thus created. Such removal and replacement shall be in accordance with all applicable requirements and procedures in the bylaws for the removal and replacement of directors, including,

but not limited to, any provisions relating to cumulative voting. If such removal and replacement is to occur at a special association meeting, the call for such meeting shall be by the president or by a petition to the secretary or managing agent signed by not less than twenty-five per cent of the apartment owners as shown in the association's record of ownership; and provided further that if the secretary or managing agent shall fail to send out the notices for the special meeting within fourteen days of receipt of the petition, then the petitioners shall have the authority to set the time, date and place for the special meeting and to send out the notices for the special meeting in accordance with the requirements of the bylaws. Except as otherwise provided herein, such meeting for the removal and replacement from office of directors shall be scheduled, noticed, and conducted in accordance with the bylaws of the association.

- (2) The bylaws may be amended at any time by the vote or written consent of sixty-five per cent of all apartment owners; provided that each one of the particulars set forth in this section shall be embodied in the bylaws always; and provided further that any proposed bylaws with the rationale for the proposal may be submitted by the board of directors or by a volunteer apartment owners' committee. If submitted by that committee, it shall be accompanied by a petition signed by not less than twenty-five per cent of the apartment owners as shown in the association's record of ownership. The proposed bylaws, rationale, and ballots for voting on any proposed bylaw shall be mailed by the board of directors to the owners at the expense of the association for vote or written consent without change within thirty days of the receipt of the petition by the board of directors. The vote or written consent required to adopt the proposed bylaw shall [not] be [less than] sixty-five per cent of all apartment owners; provided that the vote or written consent must be obtained within one hundred twenty days after mailing. In the event that the bylaw is duly adopted, then the board shall cause the bylaw amendment to be recorded in the bureau of conveyances or filed in the land court, as the case may be. The volunteer apartment owners' committee shall be precluded from submitting a petition for a proposed bylaw which is substantially similar to that which has been previously mailed to the owners within one year after the original petition was submitted to the board. This subsection shall not preclude any apartment owner or voluntary apartment owners' committee from proposing any bylaw amendment at any annual association meeting.
- (3) Notices of association meetings, whether annual or special, shall be sent to each member of the association of apartment owners at least fourteen days prior to the meeting, and shall contain at least: the date, time, and place of the meeting, the items on the agenda for the meeting, and a standard proxy form authorized by the association, if any; and
- (4) No resident manager, or managing agent shall solicit, for use by the manager or managing agent, any proxies from any apartment owner of the association of owners which employs the resident manager or managing agent, nor shall the resident manager or managing agent cast any proxy vote at any association meeting except for the purpose of establishing a quorum. No member of a board of directors who uses association funds to solicit proxies shall cast any of these proxy votes for the election or reelection of board members at any association meeting unless the proxy form specifically authorizes the board member to vote for the election or reelection of board directors and the board

first posts notice of its intent to solicit proxies in prominent locations within the project at least thirty days prior to its solicitation of proxies; provided that if the board receives within seven days of the posted notice a request by any owner for use of association funds to solicit proxies accompanied by a statement, the board shall:

- (A) Mail to all owners a proxy form containing either the names of all owners who have requested the use of association funds for soliciting proxies accompanied by their statements; or
- (B) Mail to all owners a proxy form containing no names, but accompanied by a list of names of all owners who have requested the use of association funds for soliciting proxies and their statements.

The statement shall not exceed one hundred words, indicating the owner's qualifications to serve on the board and reasons for wanting to receive proxies.

- (5) A director who has a conflict of interest on any issue before the board shall disclose the nature of the conflict of interest prior to a vote on that issue at the board meeting, and the minutes of the meeting shall record the fact that a disclosure was made.

The provisions of this subsection (b) shall be deemed incorporated into the bylaws of all condominium projects existing as of January 1, 1988, and all condominium projects created after that date."

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

SECTION 6. This Act shall take effect upon its approval.

(Approved May 14, 1988.)

ACT 66

S.B. NO. 2072

A Bill for an Act Relating to Employees Excluded From Collective Bargaining Unit 5 and Making Appropriations and Other Adjustments.

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 Constitution of the State of Hawaii.

SECTION 2. The purpose of this Act is to appropriate or authorize, as the case may be, funds for salary adjustments and other cost items for employees excluded from bargaining unit 5 for the 1987-89 fiscal biennium. This Act will provide the necessary authorizations and appropriations to allow for the implementation of pay raises for employees excluded from Unit 5 on September 1, 1987, February 1, 1988, September 1, 1988, and February 1, 1989; and for increases in other cost items effective July 1, 1987.

PART II

SECTION 3. There are hereby appropriated or authorized from the sources of funding indicated below to Program Planning, Analysis, and Budgeting (BUF 101) the following sums, or so much thereof as may be necessary, to fund for the

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fiscal biennium 1987-89 the salary increases and other cost adjustments for employees excluded from bargaining unit 5, as authorized by Chapter 89C, Hawaii Revised Statutes:

	<u>FY 1987-88</u>	<u>FY 1988-89</u>
General Funds	378,890	1,652,635
Special Funds	0	33,802
Federal Funds	3,349	131,424
Other Funds	0	0

SECTION 4. Funds appropriated or authorized by this Act shall be allotted by the Director of Finance in the respective fiscal years for the purposes of this Part.

SECTION 5. 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 6. Funds appropriated or authorized by this Act which are not expended or encumbered by June 30, 1988, and June 30, 1989, or the respective fiscal years shall lapse as of those dates.

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

(Approved May 14, 1988.)

ACT 67

S.B. NO. 2295

A Bill for an Act Relating to Wildlife.

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

SECTION 1. Chapter 183D, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

“§183D- Wildlife revolving fund; establishment. (a) There is established a wildlife revolving fund under the department of land and natural resources.

(b) The following proceeds shall be retained by or transmitted to the department of land and natural resources for deposit into the wildlife revolving fund:

- (1) Moneys collected as fees for hunting licenses, attendance of hunter safety training programs, and use of public target ranges;
- (2) Moneys collected under the provision of any law relating to the importation, taking, catching, or killing of game, wildlife, and products thereof; and
- (3) Moneys, other than informers' fees authorized under section 183D-11, collected as fines for violation of this chapter or any provision of chapter 195D concerning wildlife conservation.

(c) Expenditures from the wildlife revolving fund shall be limited to the following:

- (1) For programs and activities to implement or enforce this chapter, including the provision of state funds to match federal aid grants under the Pittman-Robertson Federal Aid in Wildlife Restoration Act (50 Stat. 917, 16 U.S.C. §669), as amended, for projects concerning wildlife;

- (2) For programs and activities to implement or enforce chapter 195D concerning wildlife conservation;
- (3) For acquisition of the use, development, or maintenance of trails and accessways into or through forest reserves, natural area reserves, game management areas, wildlife sanctuaries, public hunting areas, private and commercial shooting preserves, or private lands where hunting or hiking by the public is authorized; and
- (4) For research programs and activities concerning wildlife conservation and management. Research programs and activities funded under this paragraph may be conducted by personnel of the department or through grants-in-aid to or contracts with the University of Hawaii or other qualified persons.

(d) The proceeds of the wildlife revolving fund shall not be used as security for, or pledged to the payment of principal or interest on, any bonds or other instruments of indebtedness.

(e) In addition to subsections (c) and (f), the department may use moneys in the wildlife revolving fund for the importation into, and the management, preservation, propagation, and protection of, game or wildlife in the State; provided that the department prior to authorizing expenditures or expending funds from the wildlife revolving fund shall first use those funds to maximize the State's participation to secure federal funds under the Pittman-Robertson Federal Aid in Wildlife Restoration Act, as amended.

(f) Nothing in this section shall be construed as prohibiting the funding with general funds or other funds of programs and activities to implement or enforce this chapter or chapter 195D concerning wildlife conservation."

SECTION 2. Section 183D-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The department may expend all appropriations made for the purpose of effectuating the objectives of title 12. The department may expend proceeds in the wildlife revolving fund, without appropriation or allotment as authorized under section 37-40, for the purposes specified under section 183D-. All expenditures by the department shall be approved and certified by the board."

SECTION 3. Section 195D-9, Hawaii Revised Statutes, is amended to read as follows:

"§195D-9 Penalty. Any person who violates any of the provisions of this chapter or the provisions of any rule adopted hereunder shall be guilty of a misdemeanor and shall be punished as follows:

- (1) For a first conviction by a fine of not less than \$250 nor more than \$1,000 or by imprisonment of not more than one year, or both;
- (2) For a second or subsequent conviction within five years of a previous conviction by a fine of not less than \$500 nor more than \$1,000 or by imprisonment of not more than one year, or both.

In addition to the above penalties, a fine of \$500 for each specimen of a threatened species and \$1,000 for each specimen of an endangered species intentionally, knowingly, or recklessly killed or removed from its original growing location, shall be levied against the convicted person.

The disposition of fines collected for violations of the provisions concerning wildlife conservation shall be subject to section 183D- ."

SECTION 4. Section 183D-10, Hawaii Revised Statutes, is repealed.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

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SECTION 6. If any provision of this Act, or the application thereof is held to be in conflict with permitted uses of Pittman-Robertson funds, to the extent that receipt of Pittman-Robertson funds are jeopardized, such provisions shall be held invalid and such invalidity shall not affect other provisions or applications of this 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 14, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 68

S.B. NO. 2485

A Bill for an Act Relating to Endangered Species.

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

SECTION 1. Section 195D-3, Hawaii Revised Statutes, is amended to read as follows:

“§195D-3 Determination by the department relating to conservation of particular species. (a) The department is authorized to conduct investigations on any species of aquatic life, wildlife, and land plants in order to develop information relating to their biology, ecology, population, status, distribution, habitat needs, and other limiting factors to determine conservation measures necessary for their continued ability to sustain themselves successfully.

(b) The department is authorized to adopt pursuant to chapter 91, rules relating to the taking, possession, transportation, transplantation, importation, exportation, processing, selling, [or] offering for sale, or shipment of any species of aquatic life, wildlife, and land plant for the purpose of conserving the same.

(c) Except as permitted by rules adopted by the department, it shall be unlawful for any person to take, possess, transport, transplant, export, process, sell, offer for sale, or ship any species of aquatic life, wildlife, or land plants deemed by the department to be in need of conservation pursuant to this section.”

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

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

(Approved May 14, 1988.)

ACT 69

S.B. NO. 2832

A Bill for an Act Relating to Taxation of Banks and Financial Corporations.

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

SECTION 1. Chapter 241, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§241- Time of application of tax and other provisions. (a) The tax

imposed by this chapter applies to every bank, building and loan association, development company, financial corporation, industrial loan company, or small business investment company as defined in section 241-1:

- (1) Which is in business at the commencement of a calendar year, as of January 1 of that year;
- (2) Which begins business after the commencement of a calendar year, as of the commencement of business.

(b) The measure of the tax for the year in which the taxpayer begins business is an estimate of the net income of the taxpayer for that year or for the part of that year in which it is in business.

The tax for the year in which the taxpayer begins business shall be at the tax rate provided in section 241-4.

The estimate shall be made on forms provided by the department and shall be subject to adjustment by the filing of an amended return as provided in subsection (e). The tax shall be paid on or before the twentieth day of the third month after the month in which the taxpayer begins business. Payment of the tax shall accompany the return unless time for the payment is extended by the director of taxation. The extension may be granted by the director in order to provide for payment of the tax in installments during the remainder of the calendar year.

(c) The measure of the tax for the year following the year in which the taxpayer began business is an estimate, utilizing the average monthly net income of the first taxable year of doing business multiplied by twelve. The tax shall be at the rate provided by section 241-4. A return shall be made and the tax returned and paid on or before the twentieth day of the fourth month following the close of the first taxable year of doing business and shall be subject to adjustment by the filing of an amended return as provided in subsection (e).

(d) If the taxpayer is in business at the commencement of the calendar year, and was in business during the whole of the preceding year and prior thereto, the tax shall be returned and paid as provided in section 241-4.

(e) An amended return shall be filed after the close of the applicable taxable year for each year for which an estimated tax return was filed under subsection (b) or (c).

If subsection (b) or (c) applies, any variance between the estimate and the actual net income for that year shall be adjusted and a credit or refund made, or payment of additional tax due, depending upon whether the estimate was in excess of, or less than, the actual net income of the taxpayer for the year.

The amended return shall be made and filed and any additional tax due paid on or before the twentieth day of the fourth month following the close of the taxable year in which the taxpayer commenced business.

The adjustment of the tax imposed under this chapter and the making of an amended return as provided under this section shall apply only to the first and second taxable years of doing business.

(f) Whenever any taxpayer subject for any year to the tax imposed by this chapter shall have acquired by purchase or otherwise during the preceding year the business or any part thereof of another taxpayer liable to tax under this chapter for such preceding year but not liable for the year following such sale or disposition, and the acquiring taxpayer continues the operation of the business so acquired, the net income to be reported by the acquiring taxpayer for the purpose of determining the amount of its tax under this chapter for the year following the year in which the business was so acquired shall include, in addition to the net income of the acquiring taxpayer during the year ending December 31 or fiscal year preceding, whichever is applicable, the net income of the business or part thereof so acquired for such portion of such preceding year as such business was not operated by the acquiring company.

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This subsection shall not apply to any taxpayer whose tax for the year involved is measured under subsection (b) by an estimate of gross income for such year subject to adjustment after the close of the year.

If the first paragraph of this subsection applies but the tax of the acquiring taxpayer for the year is governed by subsection (c) and adjusted under subsection (e), then in determining the average monthly net income for that purpose there shall be included in addition to the net income of the acquiring taxpayer for the period involved in the determination of the average, the net income of the business or part thereof acquired by the taxpayer for the portion of that period in which the business was not operated by the acquiring taxpayer.

(g) Whenever there is a consolidation or merger of taxpayers subject to the tax imposed by this chapter, the tax shall attach to the taxpayer thus formed and the net income which shall be used for measuring the tax of the taxpayer thus formed shall include the net income of the taxpayers which were consolidated or merged.

(h) If a taxpayer subject to the tax imposed by this chapter terminates business operations during the calendar or fiscal year and other than in an acquisition by another company, or merger, or consolidation, the tax shall apply to the actual net income for the taxable year or part of the taxable year the taxpayer continued business operations.

If a taxpayer subject to the tax imposed by this chapter terminates business operations during the taxable year:

- (1) Before the tax return is filed as required under section 241-5, a short year return shall be made and filed and the tax shall apply to the actual net income for the taxable year or part of the taxable year during which the taxpayer continued business operations; or
- (2) After the return has been made and filed as provided in section 241-5, an amended return shall be made and filed to show the actual net income for the taxable year or part of the taxable year during which the taxpayer continued business operations. Any variance between the tax computed and paid on the basis of the entire net income of the preceding calendar or fiscal year and the actual net income for the final year or part of a year of business operations shall be adjusted and a credit or refund made, or the payment of additional tax shall be made.

The return made under paragraph (1) or (2) shall be filed and the tax imposed by this chapter shall be paid on or before the twentieth day of the fourth month following the month business operations ceased or the close of the taxable year, whichever is earlier.

The tax computed under this subsection shall not be duplicated with respect to the tax of an acquiring taxpayer as determined under subsection (f) or (g)."

SECTION 2. Section 241-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The measure of the tax imposed by this chapter is the entire net income from all sources for the preceding calendar year [preceding January 1], or in the case of a taxpayer operating on a fiscal year basis, for the preceding fiscal year [in which January 1 occurs]. The tax imposed by this chapter is hereby fixed at eleven and seven-tenths per cent thereof."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 4. This Act shall take effect on January 1, 1989, so that this Act shall apply to the entire net income received for the calendar year 1988, and for calendar years thereafter. In the case of a taxpayer operating on a fiscal year basis,

the Act shall apply to the entire net income received for the fiscal year in which January 1, 1989, occurs and for fiscal years thereafter.

(Approved May 14, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

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S.B. NO. 2738

A Bill for an Act Relating to Hawaii State Plan.

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

SECTION 1. Section 226-1, Hawaii Revised Statutes, is amended to read as follows:

“§226-1 Findings and purpose. The legislature finds that there is a need to improve the planning process in this State, to increase the effectiveness of [public] government and private actions, to improve coordination among different agencies and levels of government, to provide for wise use of Hawaii's resources and to guide the future development of the State.

The purpose of this chapter is to set forth the Hawaii state plan that shall serve as a guide for the future long-range development of the State; identify the goals, objectives, policies, and priorities for the State; provide a basis for determining priorities and allocating limited resources, such as public funds, services, human resources, land, energy, water, and other resources; improve coordination of federal, state, and county plans, policies, programs, projects, and regulatory activities; and to establish a system for plan formulation and program coordination to provide for an integration of all major state, and county activities.”

SECTION 2. Section 226-2, Hawaii Revised Statutes, is amended to read as follows:

“§226-2 Definitions. As used in this chapter, unless the context otherwise requires:

- [1] “Office” means the office of state planning.
- (2) “Policy council” means the council established in section 226-53.
- (3) “Advisory committee” means the committee established in section 226-57 to advise and assist in the formulation of the state functional plans.
- (4) “State agency” means any department, office, board, or commission of the State, or the University of Hawaii.
- (5) “County agency” means any department, office, board, or commission of the county.
- (6) “Hawaii state plan” means a long-range comprehensive plan, including the overall theme, goals, objectives, policies, priority guidelines, and implementation mechanisms established in this chapter.
- (7) “Priority guidelines” means those guidelines which shall take precedence when addressing areas of statewide concern.
- (8) “County general plan” means the comprehensive long-range plan or development plan, if any, which has been adopted by ordinance or resolution by a county council.

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- (9) "County development plan" means a relatively detailed plan for an area or region within a county to implement the objectives and policies of a county general plan.
- (10) "Functional plan" means a plan setting forth the policies, statewide guidelines, and priorities within a specific field of activity, when such activity or program is proposed, administered, or funded by any agency of the State.
- (11) "State programs" means a combination of actions and activities undertaken by any state agency that are designed, coordinated, and executed to achieve an objective or set of objectives and policies within defined areas of concern.
- (12) "A-95 Clearinghouse" means the agency or agencies designated to carry out the procedures established pursuant to federal directive A-95 whereby certain applications for federal funds are reviewed and affected agencies are notified of the proposed applications.
- (13) "Socio-cultural advancement" means those collective efforts, through governmental or private organizations or both, to improve the community or social well-being by carrying out the objectives and policies as related to: housing, health, education, social services, leisure, individual rights, culture, and public safety.
- (14) For the purposes of sections 226-52, 226-57, and 226-62, "conform", "in conformance with this chapter" or "be in conformance with the overall theme, goals, objectives and policies" means the weighing of the overall theme, goals, objectives and policies of this chapter and a determination that an action, decision, rule or state program is consistent with the overall theme, and fulfills one or more of the goals, objectives or policies of this chapter.
- (15) For the purposes of this chapter, "guidelines" means a stated course of action which is desirable and should be followed unless a determination is made that it is not the most desirable in a particular case; thus, a guideline may be deviated from without penalty or sanction."

"A-95 Clearinghouse" means the agency or agencies designated to carry out the procedures established pursuant to federal directive A-95 whereby certain applications for federal funds are reviewed and affected agencies are notified of the proposed applications.

"Advisory committee" means the committee established in section 226-57 to advise and assist in the formulation of the state functional plans.

"Conform", "in conformance with this chapter" or "be in conformance with the overall theme, goals, objectives and policies," for the purposes of sections 226-52, 226-57, and 226-62, means the weighing of the overall theme, goals, objectives and policies of this chapter and a determination that an action, decision, rule or state program is consistent with the overall theme, and fulfills one or more of the goals, objectives, or policies of this chapter.

"County agency" means any department, office, board, or commission of the county.

"County development plan" means a relatively detailed plan for an area or region within a county to implement the objectives and policies of a county general plan.

"County general plan" means the comprehensive long-range plan or development plan, if any, which has been adopted by ordinance or resolution by a county council.

"Federal agency" means any federal department, office, board, or commission.

"Functional plan" means a plan setting forth the policies, statewide guide-

lines, and priorities within a specific field of activity, when such activity or program is proposed, administered, or funded by any agency of the State.

“Guidelines” means a stated course of action which is desirable and should be followed unless a determination is made that it is not the most desirable in a particular case; thus, a guideline may be deviated from without penalty or sanction.

“Hawaii state plan” means a long-range comprehensive plan, including the overall theme, goals, objectives, policies, priority guidelines, and implementation mechanisms established in this chapter.

“Office” means the office of state planning.

“Policy council” means the council established in section 226-53.

“Priority guidelines” means those guidelines which shall take precedence when addressing areas of statewide concern.

“Socio-cultural advancement” means those collective efforts, through governmental or private organizations or both, to improve the community or social well-being by carrying out the objectives and policies as related to: housing, health, education, social services, leisure, individual rights, culture, and public safety.

“State agency” means any department, office, board, or commission of the State, or the University of Hawaii.

“State programs” means a combination of actions and activities undertaken by any state agency that are designed, coordinated, and executed to achieve an objective or set of objectives and policies within defined areas of concern.”

SECTION 3. Section 226-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) To achieve the population objective, it shall be the policy of this State to:

- (1) Manage population growth statewide in a manner that provides increased opportunities for Hawaii’s people to pursue their physical, social, and economic aspirations while recognizing the unique needs of each county.
- (2) Encourage an increase in economic activities and employment opportunities on the Neighbor Islands consistent with community needs and desires.
- (3) Promote increased opportunities for Hawaii’s people to pursue their socio-economic aspirations throughout the islands.
- (4) Encourage research activities and public awareness programs to foster an understanding of Hawaii’s limited capacity to accommodate population needs and to address concerns resulting from an increase in Hawaii’s population.
- (5) Encourage federal actions [that will promote] and coordination among major governmental agencies to promote a more balanced distribution of immigrants among the states, provided that such actions do not prevent the reunion of immediate family members.
- (6) Pursue an increase in federal assistance for states with a greater proportion of foreign immigrants relative to their state’s population.
- (7) Plan the development and availability of land and water resources in a coordinated manner so as to provide for the desired levels of growth in each geographic area.”

SECTION 4. 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:

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- (1) 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.
- (2) Promote Hawaii as an attractive market for environmentally and socially sound investment activities that benefit Hawaii's people.
- (3) Seek broader outlets for new or expanded Hawaii business investments.
- (4) Expand existing markets and penetrate new markets for Hawaii's products and services.
- (5) Assure that the basic economic needs of Hawaii's people are maintained in the event of disruptions in overseas transportation.
- (6) Strive to achieve a level of construction activity responsive to, and consistent with, state growth objectives.
- (7) 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.
- (8) Encourage labor-intensive activities that are economically satisfying and which offer opportunities for upward mobility.
- (9) Foster greater cooperation and coordination between the [public] government and private sectors in developing Hawaii's employment and economic growth opportunities.
- (10) Stimulate the development and expansion of economic activities which will benefit areas with substantial or expected employment problems.
- (11) Maintain acceptable working conditions and standards for Hawaii's workers.
- (12) Provide equal employment opportunities for all segments of Hawaii's population through affirmative action and nondiscrimination measures.
- (13) Encourage businesses that have favorable financial multiplier effects within Hawaii's economy.
- (14) Promote and protect intangible resources in Hawaii, such as scenic beauty and the aloha spirit, which are vital to a healthy economy.
- (15) 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, potential growth industries in particular.
- (16) 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 5. Section 226-8, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) To achieve the visitor industry objective, it shall be the policy of this State to:

- (1) Support and assist in the promotion of Hawaii's visitor attractions and facilities.
- (2) Ensure that visitor industry activities are in keeping with the social, economic, and physical needs and aspirations of Hawaii's people.
- (3) Improve the quality of existing visitor destination areas.
- (4) Encourage cooperation and coordination between the [public] government and private sectors in developing and maintaining well-designed, adequately serviced visitor industry and related developments which are sensitive to neighboring communities and activities.

- (5) Develop the industry in a manner that will continue to provide new job opportunities and steady employment for Hawaii's people.
- (6) Provide opportunities for Hawaii's people to obtain job training and education that will allow for upward mobility within the visitor industry.
- (7) Foster a recognition of the contribution of the visitor industry to Hawaii's economy and the need to perpetuate the aloha spirit.
- (8) Foster an understanding by visitors of the aloha spirit and of the unique and sensitive character of Hawaii's cultures and values."

SECTION 6. Section 226-10, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) To achieve the potential growth activity objective, it shall be the policy of this State to:

- (1) Facilitate investment and employment in economic activities that have the potential for growth such as diversified agriculture, aquaculture, apparel and textile manufacturing, film and television production, and energy and marine-related industries.
- (2) Expand Hawaii's capacity to attract and service international programs and activities that generate employment for Hawaii's people.
- (3) Enhance and promote Hawaii's role as a center for international relations, trade, finance, services, technology, education, culture, and the arts.
- (4) Accelerate research and development of new energy-related industries based on wind, solar, ocean, and underground resources and solid waste.
- (5) Promote Hawaii's geographic, environmental, social, and technological advantages to attract new economic activities into the State.
- (6) Provide public incentives and encourage private initiative to attract new industries that best support Hawaii's social, economic, physical, and environmental objectives.
- (7) Increase research and the development of ocean-related economic activities such as mining, food production, and scientific research.
- (8) 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) Foster a broader public recognition and understanding of the potential benefits of new, growth-oriented industry in Hawaii.
- (10) 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.

SECTION 7. Section 226-52, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The statewide planning system shall consist of the following policies, plans, and programs:

- (1) The overall theme, goals, objectives, and policies established in this chapter shall provide the broad guidelines for the State.
- (2) The priority guidelines established in this chapter shall provide guidelines for decision-making by the State and the counties for the immediate future and set priorities for the allocation of resources. The formulation and revision of state functional plans shall be in conformance with the priority guidelines.

- (3) State functional plans shall be prepared to address, but not limited to, the areas of agriculture, conservation lands, education, energy, higher education, health, historic preservation, housing, recreation, tourism, transportation, and water resources development. The preparing agency for each state functional plan shall also consider applicable federal laws, policies, or programs that impact upon the functional plan area. State functional plans shall define, implement, and be in conformance with the overall theme, goals, objectives, policies, and priority guidelines contained within this chapter. County general plans and development plans shall be taken into consideration in the formulation and revision of state functional plans.
- (4) County general plans shall indicate desired population and physical development patterns for each county and regions within each county. In addition, county general plans or development plans shall address the unique problems and needs of each county and regions within each county. County general plans or development plans shall further define the overall theme, goals, objectives, policies, and priority guidelines contained within this chapter. State functional plans shall be taken into consideration in amending the county general plans.
- (5) State programs shall include, but not be limited to, those programs involving coordination and review; research and support; design, construction, and maintenance; services; and regulatory powers. State programs that exercise coordination and review functions shall include, but not be limited to, the state clearinghouse process, capital improvements program, and coastal zone management program. State programs that exercise regulatory powers in resource allocation shall include, but not be limited to, the land use and management programs administered by the land use commission and the board of land and natural resources. State programs shall further define, implement, and be in conformance with the overall theme, goals, objectives, and policies, and shall utilize as guidelines the priority guidelines contained within this chapter, and the state functional plans approved pursuant to this chapter."

SECTION 8. Section 226-53, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There is established a policy council whose membership shall include the following:

- (1) The planning director from each county.
- (2) Nine public members, being four from the city and county of Honolulu, one from the county of Kauai, and two from each of the counties of Maui and Hawaii; provided that in the case of the county of Maui, one such public member shall be from Molokai or Lanai and, in the case of the county of Hawaii, one public member shall be from west Hawaii and one from east Hawaii, appointed by the governor from a list of public persons from each county which shall through its mayor or council, submit no less than three names for each appointive public member to which the county is entitled. The governor shall request lists of public persons from the respective mayors for appointment to the policy council. Within thirty days following the date of the governor's request, the mayor of the respective county shall submit the list to the council of the respective county for advice and consent. Within sixty days of the date of the governor's request, the mayor shall submit the list of public persons, with the advice and consent of the

council of the respective county, to the governor for appointment to the policy council. If the mayor fails to submit a list to the council within thirty days of the date of the governor's request, the council shall submit a list to the governor within sixty days of the governor's request. If a list of public persons is not submitted by either the mayor or the council to the governor within sixty days following the date of the request for such a list, the governor shall appoint the public members from that county in accordance with the applicable geographic representation set forth above without nominations from that mayor.

- (3) The directors or [chairmen] chairpersons from the departments of agriculture, budget and finance, business and economic development, land and natural resources, health, human services, transportation, and labor and industrial relations; from the office of environmental quality control; the superintendent of education; the president of the University of Hawaii; the executive director of the housing finance and development corporation; the executive officer of the land use commission; and the director of the office of state planning.

In order to obtain the participation of the federal government in the overall state planning process, the governor shall invite the chairperson of or designated person from the Federal Executive Board located in the State, and the Commander in Chief of the Pacific (CINCPAC) or a designated person from the United States Department of Defense located in the State, to sit as non-voting ex officio members of the policy council.

The director of the office of state planning shall serve as [chairman] chairperson of the council.

The terms of the nine members from the public shall be for four years; provided that the governor may reduce the terms of those initially appointed so as to provide, as nearly as can be, for the expiration of an equal number of terms at intervals of one year. Each such term shall commence on January 1 and expire on December 31; provided that the governor may establish the commencing and expiration dates of the terms of those initially appointed. No member from the public shall be appointed consecutively to more than two terms; provided that membership shall not exceed eight consecutive years. No member from the public shall serve on any other public board or commission. The governor may remove or suspend for cause any member of the council after due notice and public hearing.

Expenses incurred by a state or federal governmental member participating in policy council deliberations shall be borne by the member's respective governmental agency. Travel expenses incurred by county planning directors participating in policy council deliberations shall be reimbursed by the office of state planning. A public member shall receive no compensation for the member's services, but each shall be reimbursed by the office of state planning for necessary expenses incurred in the performance of the member's duties."

SECTION 10.¹ Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 11.¹ This Act shall take effect upon its approval.

(Approved May 14, 1988.)

Note

1. So in original.

A Bill for an Act Relating to the Department of the Attorney General.

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

SECTION 1. Chapter 28, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§28- Criminal and juvenile justice resource coordination; administrator and staff. (a) The department of the attorney general shall serve as the clearinghouse for information on financial and nonfinancial resources that may be available to assist in improving the delivery or coordination of services under, or the implementation of, programs of the criminal justice and juvenile justice systems and agencies and shall develop, update, and coordinate the implementation of a comprehensive statewide plan of programs and priorities for the improvement of law enforcement and criminal justice, including the prevention and control of juvenile delinquency. In addition, the department may:

- (1) Seek, apply for, and administer federal funding and other resources to enhance and expand the capabilities of the criminal and juvenile justice agencies;
- (2) Coordinate and assess information on a statewide basis for the development of policies to improve the criminal justice and juvenile justice systems and programs; and
- (3) Administer state-funded criminal and juvenile justice programs as specifically directed by law or as may be implied through the appropriation of funds.

(b) The attorney general may employ, without regard to chapters 76 and 77, and at pleasure dismiss an administrator to oversee and carry out the resource coordination functions of the department set forth in subsection (a). In addition, the attorney general may employ, without regard to chapters 76 and 77, and at pleasure dismiss other support staff necessary for the performance of the resource coordination functions.”

SECTION 2. Section 76-16, Hawaii Revised Statutes, is amended to read as follows:

“§76-16 Civil service and exemptions. The civil service to which this part applies comprises all positions in the State now existing or hereafter established and embraces 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 [which] that are required by state or federal laws or regulations[,] or orders of the national guard[,] to be filled from [such] those commissioned or enlisted personnel;
- (2) Positions filled by persons employed by contract where the director of personnel services 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 [such] 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 of a temporary nature needed in the public interest where the need for the [same] position does not exceed one year, but before any person may be employed to render [such] the temporary service, the

- director shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable;
- (4) Positions filled by the legislature or by either house or any committee thereof;
 - (5) Employees in the office of the 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, jury commissioners, 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; 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, and one law clerk for each judge of the circuit court and the administrative judge of the district court of the first circuit (provided that the law clerk for a judge of the circuit court shall be employed in lieu of and shall have the powers and duties of a court officer and bailiff under section 606-14); sheriff, first deputy sheriff, and second deputy sheriff; and one private secretary for 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, an administrator and any support staff for the criminal and juvenile justice resource coordination functions, and law clerks;
 - (11) Teachers, principals, vice-principals, district superintendents, chief deputy superintendents, other certificated personnel, and not more than twenty noncertificated administrative, professional, and technical personnel not engaged in instructional work in the department of education, and 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, for which projects federal funds are available;
 - (13) Positions filled by inmates, kokusas, [and] patients of state institutions, [and] persons with severe physical or mental handicaps participating on the work experience training programs, and students[.] and positions filled through federally funded programs which provide temporary public service employment such as the federal Comprehensive Employment and Training Act of 1973;
 - (14) A custodian or guide at Iolani Palace, Royal Mausoleum, and Hulihee Palace;
 - (15) Positions filled by persons employed on a fee, contract, or piecework basis who [may] lawfully may perform their duties concurrently with their private business or profession or other private employment and

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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 [such] other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; one additional deputy to administer all hospitals within the jurisdiction of the department of health; one additional deputy in the department of health to administer all environmental health programs within the jurisdiction of the department; one additional deputy in the department of human services either in charge of welfare or [such] other functions within the department as may be assigned by the director of human services; one additional deputy in the department of health in charge of administration or [such] other functions within the department as may be assigned by the director of health with the approval of the governor; one additional deputy in the department of business and economic development to perform the duties assigned by the director of business and economic development and approved by the governor; one additional deputy in the department of budget and finance to perform the duties assigned by the director of finance and approved by the governor; one additional deputy within the department of land and natural resources to perform the duties to be assigned by the chairperson of the board of land and natural resources; and an administrative assistant to the superintendent of education;
- (17) Positions specifically exempted from this part by any other law; provided that 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 [manpower] 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 lunch periods 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 housing authority; provided that no more than twenty-six per cent of the authority's work force 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 which require hiring of nutrition program assistants who live in the areas they serve; and
- (23) Positions filled by [the] severely handicapped persons who are certified by the state vocational rehabilitation office that they are able to [safely] perform safely the duties of the positions.

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 3. Chapter 844, Hawaii Revised Statutes, is repealed.

SECTION 4. All rights, powers, functions, and duties of the state law enforcement planning agency, as it functioned immediately prior to the effective date of this Act as an agency established within the department of the attorney general for administrative purposes, are transferred to the department of the attorney general.

All 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 employee of the State whose functions are transferred by this Act 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.

SECTION 5. All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the state law enforcement planning agency relating to the functions transferred by this Act to the department of the attorney general shall be transferred with the functions to which they relate.

SECTION 6. This Act shall take effect on July 1, 1988.¹

(Approved May 14, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 72

S.B. NO. 2793

A Bill for an Act Relating to Horizontal Property Regime.

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

SECTION 1. Section 514A-32, Hawaii Revised Statutes, is amended to read as follows:

“§514A-32 Questionnaire and filing fee. The notice of intention shall be accompanied by a fee [of \$250] as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91 and by a verified copy of a questionnaire properly filled in. The questionnaire shall be in such form and content as will require full disclosure of all material facts reasonably available.”

SECTION 2. Section 514A-36, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) [No additional fee shall be imposed for the issuance by the commission of the first public report.] The developer shall be assessed a fee [of \$150] as provided in the rules adopted by the director of commerce and consumer affairs pursuant to chapter 91, for the issuance of a subsequent public report and [\$75] for the issuance of a supplementary public report.”

SECTION 3. Section 514A-38, Hawaii Revised Statutes, is amended to read as follows:

“§514A-38 Request for public report or hearing by developer. If, within thirty days after notice of intention is properly filed pursuant to sections 514A-31 and 514A-32, a public report has not been issued by the real estate commission, the developer may, in writing, request of the commission that the report be prepared by a private consultant, and when requested by the commission, the director of

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commerce and consumer affairs may contract with private consultants for the preparation of public reports prescribed in this chapter. The cost of preparation of public reports by private consultants shall be borne by the developer[; provided that upon payment of the cost of the first public report, the developer shall be reimbursed one-half of the filing fee paid under section 514A-32, or upon payment of the cost of subsequent or supplementary public reports, the developer shall be reimbursed one-half of the respective fee assessed therefor under this chapter]. If the commission does not request the director to let the contract, or if the director determines not to let the contract, or when a final or preliminary public report is not otherwise issued within a reasonable time after notice of intention is properly filed pursuant to sections 514A-31 and 514A-32, or when a substitute public report is not issued within a reasonable time after requested or required, or if the developer is materially grieved by the form or content of a public report, the developer may, in writing, request and shall be given a hearing by the real estate commission within a reasonable time after receipt of request."

SECTION 4. Section 514A-95, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) All managing agents doing business in this State on July 1, 1984, shall register with the real estate commission before January 1, 1985. Any person who becomes a managing agent after July 1, 1984, shall register with the commission by January 1, 1985, or not later than one week after becoming a managing agent, whichever is later. Every managing agent shall pay an initial registration fee [of \$25 and a reregistration¹ of \$15.] as provided in the rules adopted by the director of commerce and consumer affairs pursuant to chapter 91. Reregistration shall be on a biennial basis. Registration fees shall be placed in the special fund established under section 26-9(m) for compliance resolution."

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

SECTION 6. This Act shall take effect upon its approval.

(Approved May 14, 1988.)

Note

1. Prior to amendment "fee" appeared here.

ACT 73

S.B. NO. 2788

A Bill for an Act Relating to Cemeteries and Funeral Trusts.

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

SECTION 1. Chapter 441, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§441- Transfer of license. (a) No license issued under this chapter shall be transferred, assigned, or loaned to another person. Any transaction involving the transfer of a licensee's business to another person shall require the prior approval of the director.

(b) The director may disapprove the proposed transfer of a license:

- (1) For failure of the current licensee to meet and satisfy the requirements of section 441-46;

- (2) For failure of the person intending to assume the current licensee's business to meet and satisfy the requirements of section 441-21; or
- (3) In the interest of the contract holders of the current licensee.

(c) Within sixty days after receipt of the notification of disapproval of the transfer of the licensee's business, the licensee may request an administrative hearing to review the disapproval pursuant to chapter 91."

SECTION 2. Section 441-22, Hawaii Revised Statutes, is amended to read as follows:

"§441-22 Bond. (a) [Each] A cemetery [or] authority selling perpetual care, a cemetery authority selling pre-need interment services, or a pre-need funeral authority shall file and maintain with the director a bond in the penal sum of \$50,000 for each new license and for the renewal of a license. The bond shall continue in full force and effect, and shall run concurrently:

- (1) With the period of the license and for any renewal thereof; or
- (2) With the period established by the director pursuant to the rules as the case may be, unless terminated or canceled by the surety.

The form of the bond shall be approved by the director.

(b) All bonds required by this section shall be issued by a surety company authorized to do business in the State, and shall run to the State. The bond shall be conditioned that the cemetery or pre-need funeral authority will faithfully, promptly, and truly account and pay over to all persons to or for whom it may sell, lease, or otherwise deal in cemetery property, pre-need interment, or pre-need funeral services all sums of money that may properly be due them.

(c) In addition to any other remedy, the director or any person claiming to have sustained damage by reason of any breach of the conditions of the bond may bring action on the bond for the recovery of any damages sustained therefrom. The liability of the surety shall not exceed the amount of the bond issued to the establishment for which the bond was issued.

(d) Termination, [or] cancellation, or expiration shall not be effective, unless notice thereof is delivered by the surety to the director at least sixty days prior to the date of termination, [or] cancellation[.], or expiration. The director shall [forth-with] give notice [thereof] to the [cemetery or pre-need funeral authority] affected [by the] licensee that notice of termination, [or] cancellation, or expiration, has been received and that the license of the licensee shall be [suspended] placed on a limited and conditional status upon termination, [or] cancellation, or expiration of the bond, unless prior thereto, a new bond has been filed with the director. The limitations and conditions of the license shall be set forth in the notice and shall include, but not be limited to, the following:

- (1) The licensee shall not sell any pre-need services or merchandise to consumers;
- (2) The licensee may sell perpetual care to satisfy the requirements of section 441-36; provided that perpetual care payments received by the licensee shall be transferred to the trustee no later than fifteen days after receipt for deposit into the perpetual care fund;
- (3) All monies collected or received by the licensee as payments on previously executed contracts for pre-need and perpetual care shall be transferred to the trustee no later than fifteen days after receipt for deposit into trust;
- (4) Withdrawal of principal from the pre-need trust shall only be in accordance with this chapter and rules adopted by the director pursuant to chapter 91;

- (5) No interest or income from the pre-need trust shall be withdrawn from the trust fund by the licensee or trustee;
- (6) Withdrawal of interest or income from the perpetual care fund shall be allowed only to cover administrative expenses limited to payroll and fixed monthly operating expenses related to maintaining perpetual care of the cemetery;
- (7) The licensee shall continue to seek a surety who will provide bonding in accordance with this section;
- (8) Failure of the licensee to submit satisfactory proof of bond coverage within one year may result in the suspension of its license; and
- (9) The director shall have the right to alter, amend, modify, or supplement any of the limitations and conditions in the interest of the contract holders of the licensee.

(e) Failure, refusal, or neglect of a licensed cemetery [and] or pre-need funeral authority to maintain in full force and effect a bond as required by this section shall cause the license to be placed on automatic [suspension of the license of the cemetery or pre-need funeral authority] limited and conditional status effective as of the date of termination, cancellation, or expiration [or cancellation] of its bond. [The director shall not reinstate the affected license until satisfactory proof of bond coverage is submitted to the director as required by this section. Failure to effect a reinstatement of a suspended license within sixty days of the expiration of the requirements of licensing shall cause it to be terminated, thereby forfeiting all license and biennial renewal fees. A licensee may, within fifteen days after receipt of the notification of the license termination, request an administrative hearing to review the termination pursuant to chapter 91.] The licensee shall abide by the limitations and conditions set forth in subsection (d) until satisfactory proof of bond coverage is submitted to the director as required by this section. Failure to abide by any of the limitations and conditions set forth in subsection (d) shall result in an automatic fine against the licensee of \$1,000 per violation of any limitation or condition. Each day's continuance of a violation may be treated as a separate violation. Within sixty days after receipt of the notification of the imposition of the automatic fine, the licensee may request an administrative hearing to review the automatic fine pursuant to chapter 91.

(f) A licensee on limited and conditional status who fails, refuses, or neglects to submit satisfactory proof of bond coverage as required by this section within a period of one year, unless otherwise modified by the director, shall cause the automatic and immediate suspension of its license. The director shall not reinstate the license until satisfactory proof of bond coverage is submitted to the director. During the period of suspension the licensee is prohibited from acting or assuming to act as a cemetery or pre-need funeral authority except to the extent that it provides perpetual care services or honors the obligations of its pre-need contracts with customers. The licensee shall notify the trustee of the trust of the suspension of its license. The licensee may seek to surrender its license pursuant to section 441-46 or transfer its license pursuant to section 441- .

(g) Failure to effect a reinstatement of a suspended license within sixty days shall cause it to be terminated, thereby forfeiting all license and renewal fees and the rights of the licensee to use the license, and to act as a cemetery or pre-need funeral authority under this chapter. Within sixty days after receipt of the notification of the license termination, the licensee may request an administrative hearing to review the termination pursuant to chapter 91. The licensee shall notify the trustee of the trust of the termination of its license.

(h) A licensee who is able to show that a bond cannot be reasonably secured may, with the approval of the director, file an alternative form of security as provided by rule in lieu of the bond required by this section. The filing of this alternative

form of security shall allow the director to reinstate a license which has been placed on a limited and conditional status, suspended, or terminated.”

SECTION 3. Section 441-45, Hawaii Revised Statutes, is amended to read as follows:

“§441-45 Penalty. In addition to the penalties otherwise provided by law, any licensee who violates, or omits to comply with any of the provisions of this chapter or rules adopted pursuant thereto shall be fined not more than \$1,000 for each violation.”

SECTION 4. Section 441-46, Hawaii Revised Statutes, is amended to read as follows:

“[§441-46] Surrender of license. (a) A pre-need authority licensee covered under this chapter may seek to terminate all further responsibilities for compliance with the requirements of this chapter by voluntarily offering to [surrendering] surrender its license to the director with a sworn statement to that effect. [Such] The statement [must] shall be accompanied by an affidavit that [said] the licensee has lawfully expended or refunded all pre-need trust funds accepted by the person or made provisions to transfer [said funds] the pre-need trust funds subject to the [obligation] obligations related thereto to another [licensee] person subject to approval of the director, and that the pre-need authority surrendering the license will accept no additional pre-need payments. [The director shall immediately cancel or revoke such license.]

(b) A cemetery authority licensee covered under this chapter may seek to terminate all further responsibilities for compliance with the requirements of this chapter by voluntarily offering to surrender its license to the director with a sworn statement to that effect. The statement shall be accompanied by an affidavit that the licensee has made provisions to have the trustee of the perpetual care fund provide for the perpetuity of the cemetery or to transfer the perpetual care fund subject to the obligations related thereto to another person subject to the approval of the director, and that the authority seeking to surrender the license will make no additional interments.

(c) The person proposed to receive the pre-need trust or perpetual care fund subject to the obligations related thereto shall meet and satisfy the requirements of section 441-21 prior to the director accepting the voluntary surrender of the pre-need or cemetery authority license and canceling or revoking the license.”

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 6. This Act shall take effect upon its approval.

(Approved May 14, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

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SECTION 1. Section 461-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Every applicant shall pass the National Association of Boards of Pharmacy Licensure Examination (NABPLEX) with a score of not less than seventy-five, the Federal Drug Law Examination (FDLE) with a score of not less than seventy-five [per cent], and the state jurisprudence examination with a score of not less than seventy-five [per cent].”

SECTION 2. Section 461-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) An applicant for examination who is a registered pharmacist as specified in section 461-5(b), may be granted a temporary license by the board; provided that the person shall first pass the state jurisprudence examination with a score of not less than seventy-five [per cent].”

SECTION 3. Statutory material to be repealed is bracketed.

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

(Approved May 14, 1988.)

ACT 75

S.B. NO. 2856

A Bill for an Act Relating to the Vocational and Technical Training Projects Revolving Fund.

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

SECTION 1. Section 304-8.4, Hawaii Revised Statutes, is amended to read as follows:

“§304-8.4 Vocational and technical training projects revolving fund. There is established a revolving fund for the vocational and technical training projects of the community colleges and the University of Hawaii at Hilo into which shall be deposited the receipts from fees for services, supplies, and use of equipment provided by or in connection with these projects. Funds deposited in this account shall be expended for vocational and technical training projects, and supplies, equipment, and services related thereto.

The University of Hawaii at Hilo shall report as of the close of each fiscal year to the governor and legislature on the revolving fund's revenues and expenditures for the reported year. These reports shall be submitted not later than twenty days prior to the convening of each regular session.”

SECTION 2. New statutory material is underscored.

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

(Approved May 14, 1988.)

ACT 76

S.B. NO. 3163

A Bill for an Act Relating to the Governor's Agriculture Coordinating Committee.

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

SECTION 1. Section 164-1, Hawaii Revised Statutes, is amended to read as follows:

“§164-1 Establishment of the governor’s agriculture coordinating committee. There is established, in the governor’s office for administrative purposes, the governor’s agriculture coordinating committee, whose membership shall include the special assistant for agriculture, office of the governor, who shall be the chairperson, the director of business and economic development, the chairperson of the board of land and natural resources, the chairperson of the board of agriculture, the director of transportation, the chairperson of the Hawaiian homes commission, the director of health, or their respective deputies, the dean of the college of tropical agriculture and human resources, or at the designation of the dean, the director of the Hawaii institute of tropical agriculture and human resources, and three farmers, one of whom shall be a representative of a recognized nonprofit association of farmers. All members of the committee shall serve without pay but shall be entitled to reimbursement for necessary expenses while attending meetings and while in the discharge of the duties and responsibilities of the committee. The salary of the special assistant to the governor for agriculture shall be fixed by the governor.”

SECTION 2. New statutory material is underscored.

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

(Approved May 14, 1988.)

ACT 77

S.B. NO. 3168

A Bill for an Act Relating to Employment Security.

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

SECTION 1. Section 383-121.5, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) Twenty days before the convening of the legislature in regular session each year, the director [of finance] shall submit a report to the legislature on the financial status of the special unemployment insurance administration fund.”

SECTION 2. Statutory material to be repealed is bracketed.

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

(Approved May 14, 1988.)

ACT 78

S.B. NO. 3175

A Bill for an Act Relating to Deposit and Investment of State Funds.

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

SECTION 1. Section 36-21, Hawaii Revised Statutes, is amended to read as follows:

“§36-21 Short-term investment of state moneys. The director of finance may invest any moneys of the State which in the director’s judgment are in excess of the amounts necessary for meeting the immediate requirements of the State and where in the director’s judgment the action will not impede or hamper the necessary financial operations of the State in any bonds or interest-bearing notes or obligations

of the State (including state director of finance's warrant notes issued pursuant to chapter 40), or of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest, or in federal land bank bonds or joint stock farm loan bonds, or in federally insured savings accounts, or in time certificates of deposit, or in certificates of deposit open account, or in repurchase agreements with federally insured banks and savings and loan associations [authorized to do business in the State]; provided that the investments are due to mature not more than five years from the date of investment. Income derived therefrom shall be a realization of the general fund."

SECTION 2. Section 38-1, Hawaii Revised Statutes, is amended by amending the definition of "depository" to read as follows:

"Depository includes any federally insured national or state bank, or savings and loan association [insured by the federal savings and loan insurance corporation authorized to do business in this State]."

SECTION 3. Section 38-2, Hawaii Revised Statutes, is amended to read as follows:

"§38-2 Authorized; conditions. (a) All moneys in the state treasury may be deposited by the director to the credit of the State in any depository which the director, with the approval of the governor, may select, pursuant to this section, and any sums so deposited shall be deemed to be in the state treasury; provided that the depository in which the money is deposited furnish security as hereinafter provided[; provided that in]. In selecting a depository the class of security offered shall be considered as the basis of selection and due regard shall be given to a depository doing business in the State[, or parts thereof, where the disbursements of public money are or may be made be made'; provided that no].

(b) No more than [sixty] forty per cent of the aggregate amount of moneys of the State available for deposit and on deposit [shall] in the state treasury may be deposited in [any one depository.] depositaries without the State.

(c) No more than sixty per cent of the aggregate amount of moneys of the State available for deposit and on deposit in the state treasury may be deposited in any one depository; provided that if the yield offered by any one depository in the State is greater than the yield offered by other depositories in the State, then, consistent with the safety and liquidity of such moneys, more than sixty per cent of the aggregate amount of moneys available for deposit and on deposit in the stated treasury may be deposited in such depository within the State offering a higher yield.

(d) The director shall consider the beneficial effects to the State of using depositories within the State, as well as the safety and liquidity of the sums to be deposited in the depository and the yield offered by the depository prior to the selection of the depository.

(e) In case of loan fund money for which there is no immediate need, or expenditures from which would not be made for at least three months, the director may place these funds on time deposit on such terms and at such rates of interest as may be allowed by a depository to other depositors.

(f) All deposits of money, except time deposits, shall be paid upon demand on checks signed by the director and countersigned by the comptroller, or by the payment of a certificate of deposit issued by the depository, which certificate shall be endorsed by the payee named therein, as well as by the comptroller. Each depository shall at the end of every month render to the director a statement, in duplicate, for each of the funds of the State, showing the daily balances on open commercial account which were held by it during the month. [One copy of the statement shall be filed by the director with the comptroller. The director shall

annually, as of July 1, furnish each depository with a statement, certified by the comptroller, showing the amount and description of the securities on deposit with the director by the depository to secure the deposits of the State.] The duly authorized representatives of any depository shall at all times during office hours have access to the securities deposited by the depository to secure the deposits of the State for the purpose of examining the same and removing the coupons that may have matured, the examination to be made in the presence of the director or the director's representative."

SECTION 4. Section 38-3, Hawaii Revised Statutes, is amended to read as follows:

"§38-3 Securities for protection of funds deposited. For the protection of funds deposited by the director under this chapter, the following securities shall be deposited with the director, or with banks in the continental United States, or with financial institutions with trust powers authorized to do business in the State, as the director may select, to be held therein for safekeeping subject to the order of the director, any other provisions of the laws of the State to the contrary notwithstanding:

- (1) Bonds, notes, debentures, or other evidences of indebtedness of the State or of any county of the State, for which the payment of the interest and principal is a direct obligation of the State or the county, as the case may be, in an amount at least equal in their par value to the amount of the deposit with the depository; [or]
- (2) Bonds, notes, debentures, or other evidences of indebtedness of agencies of the State or of agencies of any county of the State, for which the payment of the interest and principal is from the revenues of the issuing agency, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository; [or]
- (3) Bonds, notes, debentures, or other evidences of indebtedness of any improvement district or frontage improvement of any county of the State, for which the payment of the interest and principal is from the assessments made for the improvement, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository; [or]
- (4) Bonds, notes, bills, or certificates of indebtedness of the United States or of agencies of the United States, for which the payment of the interest and principal is a direct obligation of the United States, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository; [or]
- (5) Bonds, notes, or debentures of agencies of the United States, in an amount at least equal to ninety-five per cent of their market value, but not to exceed their par value, to the amount of the deposit with the depository; [or]
- (6) Warrants or warrant notes of the State in an amount at least equal in their face value to the amount of the deposit with the depository; [or]
- (7) Bonds, notes, debentures, or other evidences of indebtedness of any other state of the United States, for which the payment of the interest and principal is a direct obligation of such state, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository; [or]
- (8) Bonds, notes, debentures, or other evidences of indebtedness of any city or of any county in the continental United States, for which the

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payment of the interest and principal is a direct obligation of the city or county, as the case may be, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository; or

- (9) Other assets on the books of the depository which are eligible to secure advances from the Federal Reserve Banks under regulations of the Federal Reserve Board, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository; provided that not more than fifty per cent of the deposits held by a depository may be secured by assets of this class.

Security shall not be required for that portion of any deposit that is insured under any law of the United States.

Securities deposited under this section may be withdrawn from time to time; provided that the required amount of securities shall at all times be kept on deposit. The director [may] at any time may require additional securities to be deposited under this section.

In the event that the depository shall fail to pay such deposits, or any part thereof, upon presentation of a check or a certificate of deposit, then the director shall forthwith convert the securities deposited under this section into money for and on behalf of the State; provided that no such securities shall be sold except at public auction, after giving at least ten days' notice by publication in a newspaper of general circulation in the State."

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

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 14, 1988.)

Note

1. So in original.

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S.B. NO. 3187

A Bill for an Act Relating to Statistical Boundaries.

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

SECTION 1. Section 26-18, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The following are placed in the department of business and economic development for administrative purposes as defined by section 26-35: Aloha Tower development corporation, Hawaii community development authority, high technology development corporation, land use commission, natural energy laboratory of Hawaii, housing finance and development corporation, and any other boards and commissions as shall be provided by law.

The department of business and economic development shall be empowered to establish, modify, or abolish statistical boundaries for cities, towns, or villages in the State[. The department] and shall publish, [annually] as expeditiously as

possible, an up-to-date list of cities, towns, and villages [for which] after changes to statistical boundaries have been [set.] made.”

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

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

(Approved May 14, 1988.)

ACT 80

S.B. NO. 3216

A Bill for an Act Relating to Medical Records.

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

SECTION 1. Section 622-58, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Records exempt from the retention requirement are: public health mass screening records; pupils' health records and related school health room records; preschool screening program records; communicable disease reports; and mass testing epidemiological projects and studies records, including consents; topical fluoride application consents; psychological test booklets; laboratory copies of reports, pharmacy copies of prescriptions, patient medication profiles, hospital nutritionists' special diet orders, and similar records retained separately from the medical record but duplicated within it; public health nurses' case records that do not contain any physician's direct notations; social workers' case records; and diagnostic or evaluative studies for the department of education or other state agencies.”

SECTION 2. New statutory material is underscored.

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

(Approved May 14, 1988.)

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S.B. NO. 3218

A Bill for an Act Relating to Certifications for Tax Exemptions.

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

SECTION 1. Section 235-1, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of “blind” to read:

“ ‘Blind’ means a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or whose visual acuity is greater than 20/200 but is accompanied by a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than [20] twenty degrees. The impairment of sight shall be certified to [by the state department of health or by any state, county, or city and county medical officer duly authorized by the state department of health for this purpose,] on forms prescribed by the department of taxation on the basis of a written report on an examination performed by a qualified ophthalmologist or qualified optometrist [duly authorized by the state department of health].”

2. By amending the definition of “deaf” to read as follows:

“ ‘Deaf’ means a person whose average loss in the speech frequencies

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(500-2000 Hertz) in the better ear is [82] eighty-two decibels, A.S.A., or worse. The impairment of deafness shall be certified to [by the department of health or by any state, county, or city and county medical officer duly authorized by the department of health for this purpose, on the basis of a written report on an examination performed] by a qualified otolaryngologist [duly authorized by the department of health.] on forms prescribed by the department of taxation."

3. By amending the definition of "person totally disabled" to read as follows:

" "Person totally disabled" means a person who is totally and permanently disabled, either physically or mentally, which results in the person's inability to engage in any substantial gainful business or occupation.

The disability shall be certified to [by the department of health or by any state, county or city and county medical officer duly authorized by the department of health for this purpose, on the basis of a written report on an examination performed] by a [qualified] physician [duly authorized by the department of health.] licensed under chapter 453 or 460, or both, on forms prescribed by the department of taxation."

SECTION 2. Section 237-17, Hawaii Revised Statutes, is amended to read as follows:

"§237-17 Persons with impaired sight, hearing, or who are totally disabled. Anything in section 237-13 to the contrary notwithstanding, the privilege tax levied, assessed, and collected on account of the business or other activities of individuals who are blind, deaf, or totally disabled, or corporations all of whose outstanding shares are owned by individuals who are blind, deaf, or totally disabled shall not exceed one-half of one per cent of the proceeds, sales, income, or other receipts subject to tax. For the purpose of this chapter "blind", "deaf", or "totally disabled" is defined as in section 235-1. The impairment of sight or hearing, or the disability, shall be certified to [by the department of health or by any state or county medical officer duly authorized by the department of health for this purpose.] as provided in section 235-1."

SECTION 3. Section 246-31, Hawaii Revised Statutes, is amended to read as follows:

"§246-31 Exemption, persons with impaired sight or hearing and persons totally disabled. (a) Any person who is blind or deaf, as defined in section 235-1 [shall], so long as the person's sight or hearing is so impaired, 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 impairment of sight or hearing shall be certified to by [the state department of health or by any state or county medical officer duly authorized by the state department of health for this purpose.] a qualified ophthalmologist, optometrist, or otolaryngologist, as the case may be, on forms prescribed by the department of taxation.

(b) Any person who is totally disabled, as defined in section 235-1 [shall], 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 [the state department of health or by any state or county medical officer duly authorized by the state department of health for this purpose.] a physician licensed under chapter 453 or 460, or both, on forms prescribed by the department of taxation."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect on January 1, 1989.

(Approved May 14, 1988.)

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S.B. NO. 3221

A Bill for an Act Relating to Real Property Liens.

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

SECTION 1. Section 346-29.5, Hawaii Revised Statutes, is amended to read as follows:

“[§346-29.5] Real property liens. (a) The department of human services may require of any person applying for or currently receiving assistance under the department's programs, including but not limited to aid to families with dependent children, medicaid, food stamps, and general assistance, who owns or has any interest in real property, that the person shall enter into an agreement with the department that future grants of assistance shall be and constitute a lien against the interest in real property, and shall remain a lien until satisfied and discharged, [except that the obligation based on a lien held by the department on] with the exception of home property lived on by the assistance household [shall not exceed \$20,000].

(b) The agreement shall be recorded in the bureau of conveyances, or filed in the office of the assistant registrar of the land court. When the agreement for the lien is recorded in the bureau of conveyances, the registrar shall forthwith cause the same to be indexed in the general indexes of the bureau of conveyances. From and after the recording in the bureau of conveyances the lien shall attach to all interests in real property then owned by the person and not registered in the land court, and from and after the filing thereof in the office of the assistant registrar of the land court the lien shall attach to any such interest in land then registered therein. The lien shall be for all amounts of assistance, unless otherwise provided by rules [and regulations promulgated under] adopted pursuant to chapter 91, then or thereafter paid in accordance with the [aforementioned] programs from which the person receives assistance[, except that the obligation based on a lien held by the department on home property lived on by the assistance household shall not exceed \$20,000].

(c) The department shall issue certificates of release or partial release upon satisfaction or partial satisfaction of the lien. Certificates of release or partial release of any real property lien issued by the director of the department or the director's authorized representative shall be recorded in the bureau of conveyances. The registrar shall forthwith cause the same to be indexed in the general indexes in a like manner as the original lien. No fee shall be charged for any of the recording. The lien herein provided for shall take priority over any other lien subsequently acquired or recorded except tax liens and except that, in the estate of a beneficiary, the actual funeral expenses, the expenses of the last sickness, the cost of administration of the estate, and any allowance made to the surviving spouse and children for their support during administration of the estate, shall have priority and preference over the lien herein imposed, and over any claim against an estate filed under section 346-37.

The lien shall be enforceable by the department by suit in the appropriate court or shall be enforceable as a claim against the estate of the recipient under section 346-37, having priority over all other debts except taxes, the actual funeral expenses, the expenses of last sickness, the cost of administration of the estate,

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and any allowance made to the surviving spouse and children for their support during administration of the estate.

[The lien shall not be enforced against the home of a beneficiary while it is being occupied by the beneficiary or by any surviving spouse who has not remarried, or by any surviving minor child or any physically or mentally handicapped child of the recipient, and such other persons as the department may by regulation designate pursuant to chapter 91.] The lien shall be enforceable as a claim under section 346-37 against the estate of a recipient under any circumstances if the estate is admitted to probate at the instance of any interested party other than the department.

Whenever the department is satisfied that the collection of the amount of assistance paid a recipient will not be jeopardized or that the release or waiver of the priority of the lien against the recipient's property, in whole or in part, is necessary to provide for the maintenance or support of the recipient, the recipient's spouse, or any minor or incapacitated child, it may release or waive the priority of the lien with respect to all or any part of the real property.

The recipient, the recipient's heirs, personal representatives, or assigns may discharge the lien at any time by paying the amount thereof to the department which shall execute a satisfaction thereof. The department may at its discretion compromise the collection of any such lien, but such compromise shall be made only when the recipient, the recipient's heirs, personal representatives or assigns prove that the collection of the full amount of the lien or claim would cause undue hardship or the lien or claim is otherwise uncollectible.

The proceeds from the enforcement, payment, or compromise of the lien shall be paid into the treasury of the State. If the amount of assistance reflected by the proceeds was paid in part by federal funds, the proper portion of these funds shall be paid by the director of finance to the treasury of the United States. The director of finance shall thereupon report such payment to the department. If the federal funds are not paid directly into the treasury of the United States, these federal funds shall be credited by the director of finance to the department for expenditure for assistance without need for further appropriation.

If at any time the federal government, or any agency or instrumentality thereof, requires, as a condition to any grant of assistance, the performance of conditions inconsistent with this section, or desisting from actions provided by this section, the governor may suspend, upon a finding to that effect and to the extent of such requirement, [suspend] any provisions of this section to the end that such federal assistance may be received.

The department shall submit an annual report to the legislature, which shall include a list of liens held by the department on real property. This report shall include, but not be limited to a description of the value of the liens, the legal status of the liens and when the liens were initiated.

The department shall [promulgate] adopt rules [and regulations under] pursuant to chapter 91 [to implement] necessary for the purposes of this section."

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

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

(Approved May 14, 1988.)

ACT 83

H.B. NO. 2119

A Bill for an Act Relating to Torts.

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

SECTION 1. Section 663-1.3, Hawaii Revised Statutes, is amended to read as follows:

"[§]663-1.3[] "Ad damnum" clause prohibited. (a) Notwithstanding any other provision of law, in any action based on tort, including a medical tort as defined in section 671-1, to recover damages for personal injuries or wrongful death, no complaint, counterclaim, cross claim or third party claim nor any amendment to such pleadings shall specify the amount of damages prayed for but shall contain a prayer for general relief, including a statement that the amount of damages is within the minimum jurisdictional limits of the court in which the action is brought.

(b) If the¹ complaint, counterclaim, cross claim or third party claim or any amendment to such pleadings contains a specified amount of damages, the claim, counterclaim, cross claim or third party claim shall be dismissed by the court without prejudice; provided that, upon the filing of a motion to dismiss a complaint on the grounds of specificity of damages, the court shall allow the pleading to be amended in lieu of dismissal at the request of the claimant.¹,

SECTION 2. New statutory material is underscored.¹

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

(Approved May 14, 1988.)

Note

1. So in original.

ACT 84

H.B. NO. 2354

A Bill for an Act Relating to Industrial Loan Companies.

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

SECTION 1. Section 408-14.7, Hawaii Revised Statutes, is amended to read as follows:

"[§]408-14.7[] Loans; collateral required. (a) No industrial loan company shall either directly or indirectly make any loan, advance or extension of credit which will exceed the greater of \$25,000 or five per cent of the paid-up capital and surplus of the industrial loan company unless such loan, advance or extension is secured by collateral so that the amount of the loan, advance or extention of credit, when added together with the outstanding balances of any prior liens, will not exceed ninety-five per cent of the fair market value of the collateral[; provided, however, that secured]. However, loans, advances or extensions of credit [to]:

- (1) To affiliates shall be secured by collateral so that the amount of the loan, advance or extention of credit, when added together with the outstanding balances of any prior liens, will not exceed eighty per cent of the fair market value of the collateral[.];

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- [(1) Loans secured] (2) Secured by unimproved raw land [shall not exceed], when added together with the outstanding balances of any prior liens, shall not exceed seventy per cent of the appraised value.
- [(2)] All real property used as collateral for loans in excess of \$25,000 made under this section shall be appraised by a qualified appraiser before making the loan.
- (b) Notwithstanding (a), an industrial loan company may make loans secured by improved residential real properties using the most recent real property tax assessment value if the following conditions are met:
- (1) The amount of the loan, advance or extension of credit, when added together with the outstanding balances of any prior liens, will not exceed seventy per cent of the tax assessment value of the property when the property is fee simple, and sixty per cent of the tax assessment value of the property when the property is leasehold; and
- (2) The use of tax assessment values is made pursuant to a written loan policy which describes the situation where such values may be used.
- [(b)] (c) The provisions of this section shall not prevent [any] an industrial loan company from [taking] placing additional liens on [existing or new] any collateral [of any kind] to secure the repayment of debt previously contracted for in good faith when the [subsequent] additional liens are necessary to further secure the payment of [any] the debt and to save the company from loss."

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

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

(Approved May 14, 1988.)

ACT 85

H.B. NO. 2358

A Bill for an Act Relating to Dentistry.

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

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

"§26H-4 Repeal dates. (a) The following chapters are hereby repealed effective December 31, 1988:

- (1) Chapter 465 (Board of Psychology)
- (2) Chapter 468E (Board of Speech Pathology and Audiology)
- (3) Chapter 468K (Travel Agencies)
- (4) Chapter 373 (Commercial Employment Agencies)
- (5) Chapter 442 (Board of Chiropractic Examiners)
- [(6)] Chapter 448 (Board of Dental Examiners)
- [(7)] (6) Chapter 436E (Board of Acupuncture)
- (b) The following chapters are hereby repealed effective December 31, 1989:
 - (1) Chapter 444 (Contractors License Board)
 - (2) Chapter 448E (Board of Electricians and Plumbers)
 - (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
 - (4) Chapter 466 (Board of Public Accountancy)
 - (5) Chapter 467 (Real Estate Commission)

- (6) Chapter 439 (Board of Cosmetology)
- (7) Chapter 454 (Mortgage Brokers and Solicitors)
- (8) Chapter 454D (Mortgage and Collection Servicing Agents)
- (c) The following chapters are hereby repealed effective December 31, 1990:
 - (1) Chapter 447 (Dental Hygienists)
 - (2) Chapter 453 (Board of Medical Examiners)
 - (3) Chapter 457 (Board of Nursing)
 - (4) Chapter 458 (Board of Dispensing Opticians)
 - (5) Chapter 460J (Pest Control Board)
 - (6) Chapter 462A (Pilotage)
 - (7) Chapter 438 (Board of Barbers)
- (d) The following chapters are hereby repealed effective December 31, 1991:
 - (1) Chapter 448H (Elevator Mechanics Licensing Board)
 - (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
 - (3) Chapter 457B (Board of Examiners of Nursing Home Administrators)
 - (4) Chapter 460 (Board of Osteopathic Examiners)
 - (5) Chapter 461 (Board of Pharmacy)
 - (6) Chapter 461J (Board of Physical Therapy)
 - (7) Chapter 463E (Podiatry)
- (e) The following chapters are hereby repealed effective December 31, 1992:
 - (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
 - (2) Chapter 437B (Motor Vehicle Repair Industry Board)
 - (3) Chapter 440 (Boxing Commission)
- (f) The following chapters are hereby repealed effective December 31, 1993:
 - (1) Chapter 441 (Cemetery and Funeral Trusts)
 - (2) Chapter 443B (Collection Agencies)
 - (3) Chapter 452 (Board of Massage)
 - (4) Chapter 455 (Board of Examiners in Naturopathy)
 - (5) Chapter 459 (Board of Examiners in Optometry)
- (g) The following chapter is hereby repealed effective December 31, 1994:

(1) Chapter 448 (Board of Dental Examiners)

[l(g)] (h) The following chapters are hereby repealed effective December 31, 1997:

- (1) Chapter 463 (Board of Private Detectives and Guards)
- (2) Chapter 471 (Board of Veterinary Examiners)."

SECTION 2. Section 448-18, Hawaii Revised Statutes, is amended to read as follows:

"§448-18 Hearings. In every case in which it is proposed [to refuse to issue a license because of lack of good moral character or] to revoke, suspend, or refuse to issue a license under section 448-17, the person concerned shall be given notice and opportunity to be heard by the board of dental examiners in conformity with chapter 91. Written notice shall be given to the person concerned at least five days before the hearing.

In all proceedings before it, the board and each member thereof shall have the same powers respecting administering oaths, compelling the attendance of witnesses, and the production of documentary evidence, and examining witnesses as are possessed by circuit courts. In case of disobedience by any person of any order of the board, or of a member thereof, or of any subpoena issued by it, or a member, or the refusal of any witness to testify to any matter regarding which the witness may be questioned lawfully, any circuit judge [shall], on application by the board,

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or a member thereof, shall compel obedience as in the case of disobedience of the requirements of a subpoena issued by a circuit court, or a refusal to testify therein."

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

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

(Approved May 14, 1988.)

ACT 86

H.B. NO. 2426

A Bill for an Act Relating to Nuisances.

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

SECTION 1. The purpose of this Act is to repeal certain laws requiring persons to obtain permits from the state department of health in order to keep pigeons and aviary game birds. The legislature finds that there is no public health reason for these permit requirements, and that the existence of these requirements constitutes nothing more than unnecessary paperwork for the department of health.

The department of health has ample authority to enforce sanitation requirements necessary for the public health through its departmental administrative rules concerning animal enclosures. It is not the purpose of this Act to repeal or in any way limit the authority of the department of health to enforce any rules concerning animal enclosures.

SECTION 2. Part VII of chapter 322, Hawaii Revised Statutes, is repealed.

SECTION 3. Part VIII of chapter 322, Hawaii Revised Statutes, is repealed.

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

(Approved May 14, 1988.)

ACT 87

H.B. NO. 2429

A Bill for an Act Relating to Mortgage Loan Exemption.

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

SECTION 1. **Findings and purpose.** The purpose of this Act is to repeal the law exempting from taxes and fees income from certain mortgage loans made before 1964. According to the department of taxation, this section should be repealed because it is obsolete and thus unnecessary "deadwood" in the statutes.

SECTION 2. Chapter 242, Hawaii Revised Statutes, is repealed.

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

(Approved May 14, 1988.)

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H.B. NO. 2437

A Bill for an Act Relating to the Attorney General.

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

SECTION 1. Section 28-3, Hawaii Revised Statutes, is amended to read as follows:

"§28-3 Gives opinions. [He] The attorney general shall, when requested, give [his] opinions upon questions of law submitted [to him] by the governor, the legislature, or its members, or the head of any department. [He] The attorney general shall file a copy of each opinion with the lieutenant governor, the public archives, the supreme court library, and the legislative reference bureau within three days of the date it is issued. Opinions on file with the lieutenant governor, the public archives, and the supreme court library shall be available for public inspection. The legislative reference bureau shall furnish the members of the legislature[., at least four times each year,] with a list of the most recent opinions filed with the bureau[.], at least once a year, not later than twenty days before the beginning of each regular session."

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

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

(Approved May 14, 1988.)

ACT 89

H.B. NO. 2242

A Bill for an Act Relating to the Penal Code.

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- Sentence of imprisonment for offenses against children, elderly persons, or handicapped persons. Notwithstanding section 706-669, a person who, in the course of committing or attempting to commit a felony, causes the death or inflicts serious or substantial bodily injury upon a person who is:

- (1) Sixty years of age or older;
- (2) Blind, a paraplegic, or a quadriplegic; or
- (3) Eight years of age or younger;

and such disability is known or reasonably should be known to the defendant, shall, if not subjected to an extended term of imprisonment pursuant to section 706-662, be sentenced to a mandatory minimum term of imprisonment without possibility of parole as follows:

- (1) For murder in the second degree--fifteen years;
- (2) For a class A felony--six years, eight months;
- (3) For a class B felony--three years, four months;
- (4) For a class C felony--one year, eight months."

SECTION 2. Section 706-620, Hawaii Revised Statutes, is amended to read as follows:

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"§706-620 Authority to withhold sentence of imprisonment. A defendant who has been convicted of a crime may be sentenced to a term of probation unless:

- (1) The crime is first or second degree murder or attempted first or second degree murder;
- (2) The crime is a class A felony;
- (3) The defendant is a repeat offender under section 706-606.5; or
- (4) The defendant is a felony firearm offender as defined in section 706-660.1(b)[.]; or
- (5) The crime involved the death of or the infliction of serious or substantial bodily injury upon a child, an elderly person, or a handicapped person under section 706- .”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

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

(Approved May 14, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

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H.B. NO. 2448

A Bill for an Act Relating to the Public Employees Health Fund.

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

SECTION 1. Section 87-1, Hawaii Revised Statutes, is amended by amending the definition of "employee" to read:

"(5) "Employee" means an employee or officer of the state or county government,

(A) Including:

- (i) A regularly employed member of the faculty of the University of Hawaii, including a research worker, an extension agent, or a person engaged in instructional or administrative work of the university;
- (ii) A regularly employed administrative officer, principal, vice-principal, teacher, special teacher, cafeteria manager, or cafeteria worker of the public schools;
- (iii) An apprentice or on-the-job trainee whether or not supported by any federal grant;
- (iv) An elective officer including a member of the legislature during the member's term of office, or a person who has served as a member of the legislature for at least a total of ten years;
- (v) A probationary employee;
- (vi) A per diem employee;
- (vii) An officer or employee under an authorized leave of absence;
- (viii) An employee of the Hawaii national guard although paid from federal funds;
- (ix) A retired member of the employees retirement system, the county pension system, or the police, firefighters, or bands-men pension system of the State or county; [and]

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- (x) A salaried and full-time member of a board or commission appointed by the governor; and
 - (ix)¹ An employee of the legislature who is employed for at least three months and whose employment is at least a one half full-time equivalent position.
- (B) But excluding:
- (i) A designated beneficiary of a retired member of the employees retirement system, the county pension system, or the police, firefighters, or bandsmen pension system of the State or county;
 - (ii) A person employed temporarily on a fee or contract basis;
 - (iii) A person employed for less than¹ three months and whose employment is less than one-half of a full-time equivalent position; and
 - (iv) A nonsalaried and nonfull-time member of a board, commission, or agency appointed by the governor of the State or the mayor of a county[; and
 - (v) An employee of the legislature other than a member of the permanent staff];

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

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

(Approved May 14, 1988.)

Note

1. So in original.

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H.B. NO. 2764

A Bill for an Act Relating to the Hawaii Penal Code.

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

SECTION 1. Section 707-750, Hawaii Revised Statutes, is amended by amending subsection (4) to read as follows:

“(4) Promoting child abuse in the first degree is a class [B] A felony.”

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

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

(Approved May 14, 1988.)

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H.B. NO. 3548

A Bill for an Act Relating to the Relief of Certain Persons' Claims Against the State and Providing Appropriations Therefor.

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

SECTION 1. The following sums of money are appropriated out of the general revenues of the State of Hawaii for the purpose of satisfying claims for legislative relief as to the following named persons, firms, corporations, others,

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and cases for overpayment of taxes, or on account of other claims for refunds, reimbursements, payments of judgments or settlements, or other payments, against the State in the amount set forth opposite their names:

REFUND OF TAXES:	<u>Amount</u>
The Waikian, Ltd. v. City and County Nos. 1719, 1729, 1743, 1849, 1883, 1905, 1997, 2177	
Tax Appeal Court Stipulated Judgment: Aug. 17, 1987	
Interest Refund:	\$ 75,300.69
JUDGMENTS AGAINST THE STATE AND SETTLEMENTS OF CLAIMS:	<u>Amount</u>
Abellira v. State Civil No. 86-0098, 1st Cir.	
Amount of settlement:	\$ 5,500.00
No interest	
Balidoy-Noda v. State Civil No. 86-3844, 1st Cir.	
Amount of settlement:	\$ 10,000.00
No interest	
Bowling v. Citizen Utilities Co. Civil No. 86-0074, 5th Cir.	
Amount of settlement:	\$ 10,000.00
No interest	
Cambra v. State Civil No. 87-1111-04, 1st Cir.	
Amount of settlement:	\$ 10,000.00
No interest	
Carlsmith v. Hamakua Sugar Civil No. 86-343(H), 3d Cir.	
Amount of settlement:	\$ 15,000.00
No interest	
Chai v. State Civil No. 86-0581, 1st Cir.	
Amount of settlement:	\$ 25,000.00
No interest	
Dias v. State Civil No. 86-0710, 1st Cir.	
Amount of settlement:	\$ 5,000.00
No interest	
DOE v. Eveland Civil No. 81-0276, U.S.D.C.	
Amount of settlement:	\$ 8,265.36
No interest	
DOE v. Wilson Civil No. 84-1278, U.S.D.C.	
Amount of settlement:	\$ 7,500.00
No interest	
Eck v. State Civil No. 85-0684(H), 3d Cir.	
Amount of Judgment:	\$7,000.00
Interest at 4% from 8-3-87:	255.07
Ewbank v. Ewbank Civil No. 86-0205(1), 2d Cir.	
Amount of settlement:	\$ 5,000.00
No interest	

Hennessey v. Gouveia Civil No. 9933, 3d Cir. Amount of settlement: No interest	\$ 4,230.14
Heptachlor Litigation Civil Nos. 71320, 72170, 75006, 1st Cir. Amount of settlement: No interest	\$1,500,000.00
Hubbard Civil No. 7662(1), 2d Cir. Amount of settlement: No interest	\$ 87,500.00
Iekar v. State Civil Nos. 86-1209 and 86-1464, 1st Cir. Amount of settlement: No interest	\$ 500,000.00
Kaae v. Martin Civil No. 87-0227, U.S.D.C. Amount of settlement: No interest	\$ 15,000.00
Kamakawiwoole v. State Civil No. 7790, 3d Cir. Amount of settlement: No interest	\$ 5,000.00
Kamoku v. State Civil No. 86-425(H), 3d Cir. Amount of settlement: No interest	\$1,500,000.00
Kent v. McNabb Civil No. 82981, 1st Cir. Amount of settlement: No interest	\$ 7,500.00
Konohia v. Valdez Civil No. 86-1206, 1st Cir. Amount of settlement: No interest	\$ 407,000.00
Leary v. State Civil No. 68444, 1st Cir. Amount of settlement: No interest	\$ 10,000.00
Lee v. State Civil No. 86-0500, U.S.D.C. Amount of settlement: No interest	\$ 22,000.00
Lewis v. State Civil No. 85-0759, 3d Cir. Amount of settlement: No interest	\$ 25,000.00
Lowe v. Bicycle Tours of Maui, Inc. Civil No. 0585(1), 1st Cir. Amount of Judgment: Interest at 4% from 2-24-86:	\$18,901.80 264.42 \$ 19,166.22
Lum v. Cheng Civil No. 86-0565, U.S.D.C Amount of settlement: Interest at 10% from 2-8-88:	\$15,000.00 590.16 \$ 15,590.16

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Lurie v. Kaanapali Properties Civil No. 7130(2), 2d Cir. Amount of settlement: No interest	\$ 5,000.00
Manzano v. Matsuura Civil No. 85-3683, 1st Cir. Amount of settlement: No interest	\$ 7,500.00
McMillien v. Worden Civil No. 86-499, 3rd Cir. Amount of settlement: No interest	\$ 35,000.00
Medina v. State Civil No. 86-3224, 1st Cir. Arbitration Award: No interest	\$ 12,540.60
Mon v. State Civil No. 87-0336, U.S.D.C. Amount of settlement: No interest	\$ 7,000.00
Morales v. State Civil No. 85-0024, 5th Cir. Amount of settlement: No interest	\$ 20,000.00
Murata v. Palacol Civil No. 86-0203(H), 3d Cir. Amount of settlement: No interest	\$ 35,000.00
Norrid v. Reed Civil No. 10095, 3d Cir. Amount of settlement: No interest	\$ 15,742.70
Nunes v. Sunn Civil No. 85-4065, 1st Cir. Amount of settlement: No interest	\$ 45,000.00
Palea v. Clark Civil No. 83-0387, U.S.D.C. Amount of settlement: No interest	\$ 37,500.00
Pekarsky v. Ariyoshi Civil No. 76-0455, U.S.D.C. Amount of settlement attorneys' fees: No interest	\$ 17,652.41
Pumaras v. County Civil No. 86-0607(1), 2d Cir. Amount of settlement: No interest	\$ 6,000.00
Robledo v. Han Civil No. 85-1513, 1st Cir. Amount of settlement: No interest	\$ 25,000.00
Rodgers v. Tanner Civil No. 85-0569, 3d Cir. Amount of settlement: No interest	\$ 3,000.00

Solatario v. Sanchez Civil No. 85-0067(2), 2d Cir. Amount of settlement: No interest	\$ 45,000.00
Tam v. Arakaki Civil No. 86-1679, 1st Cir. Amount of settlement: No interest	\$ 5,500.00
U.S.A. v. State Civil No. 82-0705, U.S.D.C. Amount of judgment: Interest at 5.75% from 11-7-86:	\$ 39,411.26 \$36,000.00 3,411.26
Warner Civil No. 87-0705, U.S.D.C. Amount of Settlement: No interest	\$ 186,260.00
Wood v. Maui Land & Pine Civil No. 85-0485(1), 1st Cir. Amount of settlement: No interest	\$ 15,000.00

MISCELLANEOUS CLAIMS:

City and County of Honolulu Reimbursement pursuant to section 70-111, Hawaii Revised Statutes	\$ 81,781.12
Krukard, Ruth A.	\$ 18.00
Matsumura, Jacqueline L.	\$ 228.80
Palmerton, William	\$ 2,500.00
Pedronan, Orlino L.	\$ 250.00
United States--Veteran's Administration Refund of overpayment of federal funds appropriated to the Predischarge Education Program	\$100,000

SECTION 2. The sums hereinabove appropriated shall be paid to the respective persons, or for the satisfaction or settlement of the respectively identified cases, and in the several amounts hereinabove set forth upon warrants issued by the comptroller of the State: (1) upon vouchers approved by the director of taxation as to claims for overpayment of taxes or related to taxes and (2) upon vouchers approved by the attorney general as to all other claims.

SECTION 3. Notwithstanding the sums hereinabove appropriated as interest upon judgments against the State and settlements of claims, payment of interest, at the rate stated above, shall be limited to the period from the date of judgment or settlement, if applicable, to thirty days after the effective date of this Act, as provided in section 662-8, Hawaii Revised Statutes, for those cases where judgment or settlement was based on chapter 662, Hawaii Revised Statutes.

SECTION 4. All unexpended and unencumbered balances of the appropriations made by section 1 of this Act as of the close of business on June 30, 1989, shall lapse into the general fund of the State.

SECTION 5. 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 6. This Act shall take effect upon its approval.

(Approved May 14, 1988.)

A Bill for an Act Relating to Unclaimed Property.

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

SECTION 1. It is the purpose of this Act to make clear that the laws of this State with respect to unclaimed or abandoned property apply to all property, including property in the possession, custody, or control of the United States of America, its officers, agencies, departments, instrumentalities, and corporations. Section 523A-13, Hawaii Revised Statutes, already provides that intangible property held by a court or other government may be presumed abandoned and, pursuant to sections 523A-17 and 523A-19, Hawaii Revised Statutes, subject to the reporting and delivery requirements of the State's unclaimed property law. This Act sets out separate procedures for the reporting and delivery of all unclaimed or abandoned property, of whatever kind or nature, in the possession, custody, or control of all federal authorities, bodies, or corporations, in recognition of the unique status of the United States, and shall be liberally construed to accomplish such purpose.

SECTION 2. Chapter 523A, Hawaii Revised Statutes, is amended by adding a new part, to be appropriately designated and to read as follows:

"PART . UNCLAIMED PROPERTY HELD BY THE UNITED STATES

§523A- Declaration of policy. It is the policy of this State to discover property in the custody of officers, departments, and agencies of the United States, which property is unclaimed or abandoned by owners whose addresses are known or presumed to be in this State.

§523A- Definitions. For purposes of this part, the following words shall have the following meanings:

"Unclaimed property" means any tangible personal property or intangible personal property, including money, deposits, choses in action in amounts certain, and all debts owed on entrusted funds or other property (except bonuses and gratuities) held by any federal agency or any officer or employee thereof, whether occasioned by contract or operation of law or otherwise, and all interest, income, or increment derived therefrom, less any lawful charges, which has remained unclaimed by the owner for:

- (1) One year from the date of maturity or call for payment, if arising from transactions under the public debt; or
- (2) One year after the property first became payable, demandable or returnable, if arising from any other transaction.

§523A- Unclaimed property subject to delivery to State; presumptions.

(a) All intangible unclaimed property is subject to delivery to this State if the last known address of the owner is in this State. If the last known address of an owner is in this State, any other owner's address which is unknown shall be presumed to be in this State. If the last known addresses of owners are in this State and in one or more other states, the addresses of other owners whose addresses are unknown shall be presumed to be within this State if the federal agency or instrumentality having custody of the unclaimed property initially acquired possession in this State or if the federal agency or instrumentality possessing, holding, controlling, or owing such property is a corporation domiciled in this State. If the records of any officer, department, or agency of the United States do not disclose the address of any owner

of unclaimed property, such address shall be presumed to be within this State if the federal agency having custody of the unclaimed property initially acquired possession in this State or is a corporation domiciled in this State. All addresses presumed to be within this State are presumed to be within the city and county of Honolulu. For the purpose of this part, it shall be presumed that the situs of intangible unclaimed property is in this State if the last known or presumed address of the owner is in this State.

(b) All tangible unclaimed property is subject to delivery in this State if the federal agency having custody of the unclaimed property initially acquired possession in this State.

§523A- Request by director of finance for report of previously unreported information. On the thirtieth day of June of each year, the director shall request the Comptroller General or other proper officer of the United States to report all previously unreported information relating to unclaimed property as determined by that officer pursuant to federal law.

§523A- Agreement for State's payment of share of costs. The director is authorized to enter into agreements establishing the time and manner for paying the State's proportionate share of any actual and necessary cost incurred by the United States in examining its records and reporting information to the State. Said agreements may provide for single payments at stated times over a period of years. The director shall make all payments at the time and in the manner provided in said agreements.

§523A- Posting copy of report; notice of interest and intention to claim; determination of asserted interest. (a) When a report is received from the Comptroller General or other proper officer of the United States, the director shall cause the notice described in subsection (b) to be published not later than September 1 of the year immediately following the report required by section 523A-, at least once a week, for two consecutive weeks in a newspaper of general circulation in the county of this State in which is located the last known address of any person to be named in the notice. If no address is listed or the address is outside this State, the notice shall be published in the city and county of Honolulu.

(b) The published notice shall contain:

- (1) The names in alphabetical order and last known address, if any, of persons listed in the report and entitled to notice within the county as specified in subsection (a); and
- (2) A statement that information concerning the property and the name and last known address of the holder may be obtained by any person possessing an interest in the property by addressing an inquiry to the director.

(c) The director shall not be required to publish in the notice any items of less than \$50 unless the director considers their publication to be in the public interest. Any person asserting an interest in property described in the report may elect to claim against the United States, under the laws of the United States, in which event and within ninety days following the date of initial publication such person shall notify the director of such person's asserted interest and intention to so claim. The director shall omit such property from any claim by the State until such time as the asserted interest may be finally determined against the claimant. Such interest shall not thereafter be asserted against the State.

§523A- State's right unaffected by expiration of time for proceeding. The expiration of any period of time specified by statute or court order, during

which an action or proceeding may be commenced or enforced to obtain payment of a claim for funds or delivery of property shall not affect the right of this State to acquire possession of unclaimed property in accordance with the provisions of this part.

§523A- Petition for determination of State's right to custody of unclaimed property; venue; service not required. (a) Within one hundred twenty days following the date of publication by the director, or whenever it appears, after investigation by the director or otherwise, that there exists or may exist property subject to this part, the attorney general may take action to recover such property. Any proceeding by the attorney general shall be commenced by filing a petition to determine the State's right to custody of all property mentioned in the report and unclaimed within the time and in the manner provided by section 523A-. The petition shall name as respondents all persons known to have been interested and "all persons unknown claiming any title or interest" in or to the property described or referred to in the petition. Known owners may be described as a class when: (i) they own or claim property of the same nature and the value of such property as shown on the account of each such owner or claimant in the records of the United States does not exceed \$500 in value, or (ii) the records of the United States show more than ten such owners or claimants for a particular fund, item, or category of property, or (iii) the records of the United States fail to disclose the number of owners or claimants for a particular fund, item, or category of property with a reasonable degree of certainty. If the records of the United States fail to disclose with reasonable certainty the identity or number of owners or claimants of particular funds or other personal property, or the extent of their interests therein, such persons may be designated and described as a class of "all unknown owners or claimants to the funds or property mentioned in or affected by" the proceeding, and, as the case may be, the petition shall identify and set forth the court actions or proceedings to the credit of which such funds or other property are held, or the accounts or other identifying references under which they are carried upon the records of the United States. The petition shall describe or refer to the property, and may include one or more items, as the attorney general may be advised, without prejudice to the right of the attorney general to commence subsequent proceedings relating to other items not included. The petition shall also state the name of the owner and the last address of the owner as known or as presumed under this part, and shall set forth the facts and circumstances by virtue of which it is claimed that such funds or property are subject to custody by the State. When known owners or claimants are described as a class, the requirements of section 523A- must be met. Any number of respondents may be joined whether they reside in the same or different counties; and any number of causes of action may be joined and need not be separately stated.

(b) The proceeding shall be commenced and heard in the circuit court of the first circuit of the State and venue shall not be affected by the provisions of any other statute.

(c) No summons or other process shall issue to direct the appearance and answer of a respondent.

§523A- Notice of proceedings. (a) Commencing within five days after the filing of the petition, notice of the proceeding shall be published once each week for three consecutive weeks in a newspaper of general circulation published within the city and county of Honolulu. At the time the notice is first published, a copy of the petition and notice shall be posted at the courthouse in the county where each respondent was last known or presumed to have had an address. Such petition and such notice shall remain posted for forty-five days.

(b) The notice of proceeding shall advise that the State seeks custody of unclaimed property held by the United States. The names but not the addresses of the respondents shall be contained in the notice with a statement that such persons are believed to live or to have lived within the State and are believed to be or to have been owners of the unclaimed property. The notice shall not contain a description of the unclaimed property but shall advise that such description together with the last known or presumed addresses of owners may be determined by examining the petition filed in the proceeding. The petition and its place of filing shall be sufficiently identified and described. The notice shall specify when answers to the petition must be filed and advise that persons claiming an interest must answer the petition within the time prescribed by law if they elect to pursue their claims against the United States, otherwise their rights to property shall not be preserved, subject to delayed delivery as provided by law. The notice shall advise that section 523A- should be consulted for the time, form, and costs of any answer.

(c) The notice shall be deemed completed forty-five days after the date of first publication, whereupon the court shall have full and complete jurisdiction over the property described in the petition and not claimed within the time or in the manner provided in section 523A- , and shall have full and complete jurisdiction to determine the right of the State to custody and to render an appropriate judgment therefor.

(d) The notice shall be served by first class mail, together with a copy of the petition, on the clerk, registrar, or other person in charge of the federal agency, department, instrumentality, or corporation having possession, custody, or control of such property, together with a statement that no personal claim is made against such clerk, registrar, or other person.

§523A- Answer; disposition of funds on deposit; dismissal without prejudice. Any person, whether or not named in the petition, may within fifteen days but not more than sixty days after the date of the first publication of the notice respond to the petition by answer describing the property, asserting an interest as owner or successor, and declaring an intention to claim the same from the United States under the laws of the United States. Such answer shall not be filed unless accompanied by the sum of \$50, and no other answer or response shall be filed by or on behalf of a claimant. The court shall strike from the petition and dismiss from the proceeding all property described in an answer. Such dismissal shall be without prejudice to a subsequent petition should it appear that the claimant is not entitled to the property, and the interest asserted in said answer shall not thereafter be asserted against the State. The funds deposited with any answer shall be transmitted by the court to the director and shall be received for deposit in the general fund as total reimbursement for costs and services expended on behalf of the claimant.

§523A- Application for judgment relating to property not claimed by answer, and finding and declaration thereon. Within twenty days following expiration of time for filing an answer under section 523A- , the attorney general shall apply to the court for a judgment relating to all property set forth in the petition and not claimed by answer. The court shall find that such property appears to be or to have been owned by persons residing within this State and remains unclaimed by such persons. The court shall declare that the property, which shall be described, is subject to custody of the State and shall be delivered to and received by the State to be retained until such time as it may be claimed pursuant to law.

§523A- Request for delivery or payment of unclaimed property described in judgment; receipts. The director of finance shall request delivery or

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payment of all unclaimed property described in the judgment declaring the right of the State to receive custody of such property. The request shall be accompanied by a certified copy of said judgment and shall be directed to such officer, agency, or department of the United States as may have custody, possession or control of such property. The director shall furnish receipts for all property delivered or paid.

§523A- Disposition of property received. Property received under this part shall be deposited or sold by the director as though received under part I of this chapter. Property received under this part shall not be subject to claim within two years following the date upon which it is paid to or received by the State. Thereafter, persons claiming an interest in the unclaimed property delivered to the State pursuant to this part shall make their claims in the manner provided in part I of this chapter.

§523A- Undertaking to hold the United States harmless; intervention by State attorney general. (a) Upon the payment and delivery of property to the director, the State assumes custody and responsibility for the safekeeping of the property. An officer, department or agency of the United States who pays or delivers property to the director in good faith is relieved of all liability to the extent of the value of the property paid or delivered for any claim then existing or which thereafter may arise or be made in respect to such property.

(b) The State hereby undertakes to hold the United States harmless against any claim concerning property delivered to the custody of the State in accordance with the provisions of this part. In the event an action or proceeding on such claim is brought against the United States the attorney general shall intervene therein upon receipt of actual notice thereof. The State consents to suit by such claimant in such event and any defense in favor of the United States shall be available to and urged by the State.

(c) If an officer, department, or agency of the United States pays or delivers property to the director in good faith and thereafter another person claims the property from such officer, department, or agency, or another state claims the property under its laws relating to escheat or abandoned or unclaimed property, the director, upon written notice of the claim, shall defend such officer, department, or agency against the claim and indemnify such officer, department, or agency against any liability on the claim.

(d) For the purposes of this section "good faith" means that:

- (1) Payment or delivery was made in a reasonable attempt to comply with this part; and
- (2) The person paying or delivering the property had a reasonable basis for believing, based on the facts then known to the person, that the property was abandoned or unclaimed for the purposes of this part.

(e) If, and as often as may be, required by federal statute, the governor shall certify to the Comptroller General or other proper officer of the United States that the law of this State provides effective means whereby the United States shall be held harmless in the event of claim for property delivered to this State in accordance with the provisions of this part."

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

(Approved May 14, 1988.)

ACT 94

H.B. NO. 2083

A Bill for an Act Relating to Displaced Persons.

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

SECTION 1. Section 111-3, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Optional payments (dwelling). Any displaced person who moves from a dwelling who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection (b) [of this section] may receive: (1) a moving expense allowance determined according to a schedule established by the state agency involved not to exceed [\$200;] \$300; and (2) a dislocation allowance in the amount of [\$100.] \$200.’”

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

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

(Approved May 24, 1988.)

ACT 95

H.B. NO. 2085

A Bill for an Act Relating to Displaced Persons.

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

SECTION 1. Section 111-4, Hawaii Revised Statutes, is amended to read as follows:

“[[§111-4]] Replacement housing. (a) In addition to any amount authorized [herein,] in this chapter, the state agency involved in acquiring any real property shall make a payment to the owner of real property improved by a single-family, two-family, or three-family dwelling actually owned and occupied by the owner for not less than one year prior to the first written offer by the state agency for the acquisition of such property. Such payment, not to exceed [\$5,000,] \$15,000, shall be the amount, if any, which when added to the acquisition payment, equals the average price required for a comparable dwelling determined, in accordance with standards established by the state agency to be a decent, safe, and sanitary dwelling adequate to accommodate the displaced owner, reasonably accessible to public services and places of employment, and available on the private market. Such payment shall be made only to a displaced owner who purchases and occupies a dwelling within one year subsequent to the date on which the owner is required to move from the dwelling on the real property acquired for public purposes.

(b) In addition to any amount authorized [herein,] in this chapter, the state agency shall make a payment to any individual or family displaced from any dwelling not eligible to receive a payment under subsection (a) [of this section] which dwelling was actually and lawfully occupied by such individual or family for not less than ninety days prior to the first written offer by the state agency for acquisition of such property. Such payment, not to exceed [\$1,500] \$4,000, shall be the amount which is necessary to enable such person to lease or rent for a period not to exceed two years or to make the downpayment on the purchase of a decent, safe, and sanitary dwelling of standards adequate to accommodate such individual or family in areas not generally less desirable in regard to public utilities and public and commercial facilities.”

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

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

(Approved May 24, 1988.)

ACT 96

H.B. NO. 3396

A Bill for an Act Relating to Convention Center.

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 WAIKIKI CONVENTION CENTER AUTHORITY

§ -1 Findings and purpose. Tourism has been and probably will remain the mainstay of Hawaii's economy. Although prospects for the tourism industry appear to be excellent for the foreseeable future, the legislature finds that certain steps should be taken now to ensure this continued vitality. The legislature finds and declares that the construction of a convention center facility would strengthen Hawaii's economy by expanding its market size to convention-going visitors.

Conventioneers, because they spend more money per day than other visitors, are exceedingly desirable guests. An added benefit is that most conventions are normally held during the traditional tourist off-season. This influx of convention dollars during the normal tourist off-season results in greater year-round economic stability for all Hawaii.

The existing convention facilities in Hawaii are inadequate for the needs of many convention groups and, therefore, Hawaii has not been able to attract this segment of the market.

The legislature declares that the convention center facility should be centrally-located within Waikiki to best address the needs of prospective conventioneers, and that the most appropriate site is the area generally covering the International Market Place, Coral Reef Hotel, and Kuhio Mall. This site is located in the visitor hub of Waikiki, surrounded by several major hotels and in walking distance from many of the others. In this context, a convention center is presented with the capacity to act in synergism with the surrounding uses. Equally important, the area requires redevelopment. Building a convention center at this site would, thus, serve the dual purposes of providing an easily-accessible convention center in the heart of Waikiki and of reallocating Waikiki real estate to an economically more productive use.

The legislature finds, then, that the construction of a convention center at the site and the consequent revitalization of that part of Waikiki are acutely desirable for all of Hawaii. The legislature further finds that this project would best be served by the establishment of a new State corporate supervisory agency. The fundamental objective of this agency would be to supervise and regulate the development of a convention center facility at this site.

The legislature acknowledges that private and public sector cooperation is critical to the feasibility and success of a convention facility. It finds that the development and financing of a convention facility by the private sector are feasible and desirable so as to avoid expenditure of public funds while fulfilling the State's goals. To this end, the legislature believes that the State should invite convention

facility development proposals from private developers and enter into appropriate agreements covering the private sector's undertaking of the development and financing of a convention facility for the State at no cost to the State, in consideration for land use, zoning and other benefits for development and construction accruing to the site pursuant to the convention center development plan as adopted under this chapter.

§ -2 Definitions. As used in this chapter, the following words and terms shall have the following meanings unless the context shall indicate another or different meaning or intent:

- (1) "Authority" means the Waikiki convention center authority established by this chapter.
- (2) "County" means the city and county of Honolulu.
- (3) "Local governing body" means the county council of the city and county of Honolulu.
- (4) "Public agency" means any office, department, board, commission, bureau, division, public corporation agency, or instrumentality of the federal, state, or county government.
- (5) "Public facilities" include streets, utility and service corridors, and utility lines where applicable, sufficient to adequately service developable improvements in the district, sites for schools, parks, parking garage, sidewalks, pedestrian ways, and other community facilities. "Public facilities" shall also include public highways, as defined by statute, storm drainage systems, water systems, street lighting systems, off-street parking facilities, and sanitary sewerage systems.
- (6) "Real property" means lands, structures, and interests in land, including lands under water and riparian rights, space rights, and air rights and any and all other things and rights usually included within the term. Real property also means any and all interests in such property less than full title, such as easements, incorporeal hereditaments and every estate, interest, or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages, or otherwise.

§ -3 Waikiki convention center authority; established. (a) There is established the Waikiki convention center authority, which shall be a body corporate and a public instrumentality of the State, for the purpose of implementing this chapter. The authority shall be placed within the department of business and economic development for administrative purposes.

(b) The authority shall consist of seven members, who shall not be public officers or employees, appointed by the governor in accordance with this section. The members shall be from the general public and selected on the basis of their knowledge, interest, and proven expertise in, but not limited to, one or more of the following fields: finance, law, architecture, commerce and trade, corporate management, marketing, economics and visitor industry.

(c) Three members shall, by and with the advice and consent of the senate, be appointed by the governor for a term of four years; provided that of the initial appointees, one shall be appointed for a two-year term. At least one of the three members appointed by the governor shall be representative of the visitor industry in Hawaii. A vacancy on the authority of a seat subject to this subsection shall be filled in accordance with Article V, section 6, of the Constitution of the State of Hawaii.

(d) One member shall, by and with the advice and consent of the senate, be appointed by the governor from a list of nominations submitted by the president of the senate. The initial appointee under this subsection shall be appointed from a list of two nominations submitted by the president of the senate, but the list of nominations for subsequent appointments shall be subject to subsection (h). The

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member appointed from a list of nominations of the president of the senate shall serve for a term of four years.

(e) One member shall, by and with the advice and consent of the senate, be appointed by the governor from a list of nominations submitted by the speaker of the house of representatives. The initial appointee under this subsection shall be appointed from a list of two nominations submitted by the speaker of the house of representatives, but the list of nominations for subsequent appointments shall be subject to subsection (h). The member appointed from a list of nominations of the speaker of the house of representatives shall serve for a term of four years.

(f) One member shall, by and with the advice and consent of the senate, be appointed by the governor from a list of nominations submitted by the mayor of the city and county of Honolulu. The initial appointee under this subsection shall be appointed from a list of two nominations submitted by the mayor of the city and county of Honolulu but the list of nominations for subsequent appointments shall be subject to subsection (h). The member appointed from a list of nominations of the mayor of the city and county of Honolulu shall serve for a term of four years; provided that the initial appointee shall be appointed for a two-year term.

(g) One member shall, by and with the advice and consent of the senate, be appointed by the governor from a list of nominations submitted by the chairperson of the city council of the city and county of Honolulu. The initial appointee under this subsection shall be appointed from a list of two nominations submitted by the chairperson of the city council of the city and county of Honolulu, but the list of nominations for subsequent appointments shall be subject to subsection (h). The member appointed from a list of nominations of the chairperson of the city council of the city and county of Honolulu shall serve for a term of four years; provided that the initial appointee shall be appointed for a two-year term.

(h) Whenever a member appointed from a list of nominations submitted by the president of the senate, speaker of the house of representatives, mayor of the city and county of Honolulu or the chairperson of the city council of the city and county of Honolulu vacates the member's seat on the authority prior to the expiration of the member's term, the governor shall fill the vacancy for the unexpired term by appointment from a list of two nominations submitted by the nominating authority aforesaid, as the case may be. Whenever the term of a member appointed from a list of nominations submitted by any of the nominating authorities expires, the governor shall appoint a member from a list of two nominations submitted by such nominating authority, as the case may be; provided that such nominating authority may nominate and the governor may reappoint a member to another term so long as the reappointment is not contrary to subsection (j).

(i) An appointment required to be made from a list of nominations submitted by any of the nominating authorities shall be made by the governor within ten days of receipt of the list of nominations.

(j) Each term of a member of the authority shall commence on July 1 and expire on June 30. No person shall be appointed consecutively to more than two terms as a member of the authority. No person shall serve as a member of the authority for more than eight consecutive years.

(k) Any member of the authority whose term has expired and who is not disqualified from membership under subsection (j) may continue in office as a holdover member until a successor is appointed; provided that a holdover member shall not hold office beyond the end of the second regular legislative session following the expiration of the member's term of office.

(l) The governor may remove or suspend for cause any member of the authority after due notice and public hearing.

(m) Members shall:

- (1) Serve part time;
- (2) Be paid compensation of \$75 for each day in the performance of official duties; and
- (3) Be reimbursed for expenses, including travel expenses, incurred in the performance of official duties.

(n) Officers of the authority, including the chairperson, shall be selected by the members.

§ -4 Purpose; powers. (a) The primary purpose of the authority shall be to review for approval the proposed convention center development plan of a private developer and to supervise the development by a private developer of all development within the convention center district pursuant to the convention center development plan approved by the authority, including the development of a convention center facility which shall include, exhibition halls, meeting rooms, a plenary session hall, and support space, with aggregate gross floor area of at least 625,000 square feet.

- (b) Except as otherwise limited by this chapter, the authority also 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 chapters 76 and 77;
 - (7) Review and approve the convention center development plan proposed by a private developer, for the Waikiki convention center district; inspect and approve development within the convention center district for compliance with convention center development plans and rules; and upon dedication of the convention center facility to the State, to manage, operate and maintain the convention center facility;
 - (8) Cause a private developer to prepare plans, specifications, and designs, for the construction, reconstruction, rehabilitation, improvement, alteration, or repair of any project, and from time to time to modify such plans, specifications, or designs;
 - (9) Procure insurance against any loss in connection with its property and other assets and operations in such amounts and from such insurers as it deems desirable;
 - (10) Contract for and accept gifts or grants in any form from any public agency, or from any other source;
 - (11) Upon the authority determining that a private developer, acting in good faith, is unable to develop the convention center facility in cooperation with the holders of any interest in property in the convention center district, and upon making a finding that the acquisition of such property interest is necessary for its use for the purposes of this chapter, may acquire the property by condemnation pursuant to chapter 101, notwithstanding any contract to the contrary; provided, however, that the valuation of any such property acquired pursuant the exercise of the authority's power under this subsection shall be done without regard to any increase or decrease in value of the property resulting from the application of this chapter. Property so acquired by condemnation shall not be subject to chapter 171. If the convention center site is acquired

- partially or wholly by eminent domain action, the private developer shall reimburse to the State the sum of money equal to the just compensation or damages for the taking of the convention center site under the provisions of section 101-29;
- (12) Negotiate with the private developer for contribution by the private developer to defray costs relating to the relocation of persons displaced because of the development;
 - (13) Ancillary to the development of the convention center facility, the authority shall also permit the development by the private developer of the convention center facility, hotels, condominiums, commercial, retail, and office space, and other improvements which would increase the utilization of the convention center facility; and
 - (14) Do any and all things necessary to carry out its purposes and exercise the powers given and granted in this chapter.

§ -5 Designation of convention center district; convention center development plan. (a) There is established the Waikiki convention center district which shall be located in Waikiki, Oahu, at the site covering the International Market Place, Coral Reef Hotel, and the Kuhio Mall comprised of those certain parcels of land more particularly identified as tax map key: 2-6-22: parcels 02, 38, and 43.

(b) The authority shall review for approval the convention center development plan of a private developer which plan shall include a convention center and other improvements proposed for development within the Waikiki convention center district. In its review of any proposed convention center development plan pursuant to this chapter, the authority shall apply the criteria of the convention center district rules and the following criteria:

- (1) The height of any building shall not exceed 400 feet;
- (2) The aggregate floor area of condominiums and hotels shall not exceed two million square feet;
- (3) The aggregate number of dwelling units shall not exceed 1,200 condominium units, or in the alternative 800 hotel units and 950 condominium units;
- (4) The aggregate floor area for commercial, retail, and office use shall not exceed 450,000 square feet;
- (5) The convention center facility, including the exhibition halls, meeting rooms, a plenary session hall, and support space, shall have not less than 625,000 square feet;
- (6) The aggregate number of parking spaces for vehicles shall not be less than 2,000 of which not less than fifty per cent of such spaces shall be located within the convention center district; and
- (7) Groundbreaking for the commencement of the development within the convention center district shall not occur before July 1, 1989.

(c) The authority may enter into cooperative agreements with qualified persons or public agencies, where the powers, services, and capabilities of such persons or agencies are deemed necessary and appropriate for review by the authority of the development of the convention center development plan.

(d) Whenever possible, the convention center development plan shall be consistent with federal, state, and county plans. Consideration shall be given to state goals and policies, adopted state plan or land use guidance policies, county general plans, development plans, and ordinances.

(e) The authority shall hold a public hearing on a proposed convention center development plan pursuant to chapter 91.

§ -6 Convention center district rules. The authority shall establish rules for the development within the convention center district under chapter 91 on health, safety, building, planning, zoning, and land use which, upon final approval by the

authority of a convention center development plan, shall supersede all other inconsistent ordinances and rules relating to the use, zoning, planning, and development of land and construction thereon. The convention center development plan approved by the authority shall be made a part of, and shall have the same force and effect as, the rules aforesaid. Any development proposal within the convention center district under agreement with a private developer shall be subject to the requirements of chapter 343 relating to environmental impact statements and shall be provided for in the rules. The environmental impact statement shall include the disclosure of the environmental effects of the proposed development, effects of the proposed development on the economic and social welfare of the community and State including the welfare of persons to be dislocated by the proposed development, effects of the economic activities arising out of the proposed development, measures proposed to minimize adverse effects, and alternatives to the action and their environmental effects. 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.

For purposes of chapters 501, 502, and 514A, the authority may certify maps and plans of lands and real property interests within the convention center district as having complied with applicable laws and ordinances relating to consolidation, subdivision of lands, and horizontal property regimes, and such maps and plans shall be accepted for registration or recordation by the land court and registrar.

§ -7 Agreement with private developer. (a) The authority shall enter into an agreement with a private developer holding a property interest in the lands within the convention center district for the development and construction of the convention center and all other improvements. The agreement shall include provision for access to, or ownership of, adequate parking facilities in favor of the authority within the convention center district to accommodate the activities of the convention center facility. The development and construction of the improvements within the convention center district shall conform with the convention center development plan approved by the authority.

(b) As a condition and consideration of the right to develop the real property within the convention center district under the agreement, pursuant to this chapter, the private developer shall dedicate, at no cost to the State, a marketable real property interest in the convention center facility to the State with warranty of title free and clear of all encumbrances, subject to declaration of horizontal property regime, if any, and to such encumbrances and easements as shall be acceptable to the State. For a period of two years from the date of the dedication, the private developer shall manage, operate and maintain the convention center facility. All profit and loss for the two-year period from the management, operation and maintenance of the convention center facility shall accrue to or be suffered by the private developer. The private developer shall submit to the authority annual reports, including financial statements, covering the operations of the convention center facility by the private developer during the two year period. The private developer shall coordinate with the authority on all reservations based on requests for conventions at the convention center facility to occur on dates after the two year period. The authority shall thereafter manage, operate and maintain the convention center facility.

(c) As a further condition and consideration of the right to develop the real property within the convention center district under the agreement, pursuant to this chapter, the private developer shall pay the sum of \$5,000,000 as contribution for the payment of costs relating to the temporary or permanent relocation of existing licensees and lessees who are displaced because of the development within the

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convention center district pursuant to the convention center development plan by the private developer.

Upon the approval by the authority of the relocation plan which shall be prepared and submitted by the private developer to the authority, the private developer shall deliver to the authority for deposit into the Waikiki convention center development revolving fund the said sum of \$5,000,000 in the form of a certified check, an irrevocable letter of credit, or surety bond. The sum of \$5,000,000 shall be used for the implementation of the relocation plan, provided that the sum and all interest accrued thereon shall be refunded to the private developer in the event this chapter expires and becomes null and void.

The relocation plan shall include agreement by the private developer to give every displaced licensee or lessee an unassignable right of first refusal of any license or lease of space within the convention center district developed and offered for such activities similar in size and nature of the business conducted by the licensee or lessee at the time of displacement unless such right is waived by any licensee or lessee.

The authority shall cause to be established a task force to assist in the implementation of the relocation plan. The task force shall include persons, agencies and organizations representative of government and private interests.

§ -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 the convention center development district to the authority for its use.

(b) 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, 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.

(c) 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.

§ -9 Public projects. Any project or activity of any county or agency of the State in the convention center district shall be constructed, renovated, or improved in consultation with the authority.

§ -10 Waikiki convention center development revolving fund. There is created the Waikiki convention center development revolving fund into which all receipts and revenues of the authority and all legislative appropriations to the revolving fund shall be deposited. Proceeds from the fund shall be used for the purposes of this chapter.

§ -11 Exemption from taxation. The authority shall not be required to pay assessments levied by any county, nor shall the authority be required to pay state taxes of any kind. This exemption shall apply only with respect to the real property interest of the authority within the convention center district and the business of the authority relating to the real property interest.

§ -12 Assistance by state and county agencies. Any state or county agency may render services upon request of the authority.

§ -13 Declaration of public function, purpose, and necessity. The powers and functions granted to and exercised by the Waikiki convention center authority under this chapter are declared to be public and governmental functions, exercised for a public purpose, and matters of public necessity. All real and other property and privileges acquired and used by or on behalf of the State by the Waikiki

convention center authority under this chapter shall and are declared to be acquired and used for public and governmental purposes as a matter of public necessity.

§ -14 Court proceedings; preferences; venue. Any action or proceeding to which the authority, the State, or the county may be a party, in which any question arises as to the validity of this chapter, shall be preferred over all other civil cases, except election cases, in any court of this State and shall be heard and determined in preference to all other civil cases pending therein except election cases, irrespective of position on the calendar. The same preference shall be granted upon application of counsel to the authority in any action or proceeding questioning the validity of this chapter in which the authority may be allowed to intervene. In addition to the preference provided in this section, any such action or proceeding to which the authority, the State, or the county may be party, in which any question arises as to the validity of this chapter or any portion of this chapter, or any action of the authority may be filed in the supreme court of the State, which court is hereby vested with original jurisdiction over such action, and notwithstanding any provision of law to the contrary, declaratory relief may be obtained for any such action.

§ -15 Annual report. The authority shall submit a complete and detailed report of its activities to the governor and the legislature at least twenty days prior to the convening of each regular session of the legislature."

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 1988-1989 which shall be deposited into the Waikiki convention center development revolving fund for the establishment and expenses of the Waikiki convention center authority. The appropriation under this section may be used for the hiring of necessary staff and other expenses, but shall not be used for construction of the Waikiki convention center or any site preparation work.

The sum appropriated shall be expended by the convention center authority for the purposes of this section.

SECTION 3. Unless the private developer's plan for the convention center facility is approved by the authority within three years from the initial empanelling of all of the members of the Waikiki convention center authority, this Act shall automatically expire.

In the event any judicial or quasi-judicial proceeding is commenced regarding the validity of this Act or any section of this Act, or any action of the authority, the running of the three year period shall be suspended until a final nonappealable determination is made in said judicial or quasi-judicial proceeding.

SECTION 4. Renovation of Neal Blaisdell Center. (a) The legislature intends that the exhibition space and parking facilities of the Neal Blaisdell Center be renovated to accommodate local demand for increased exhibition, trade show, public show, and convention space.

(b) The legislature declares that the renovation of the Neal Blaisdell Center is necessary to increase the operational efficiency and effectiveness of the Hawaii convention center by allowing the Waikiki convention center authority to concentrate its efforts on the establishment, operation, and management of a convention center.

(c) To implement the intent under this section, there is appropriated out of the general revenues of the State of Hawaii the sum of \$13,000,000 as a grant-in-aid to the city and county of Honolulu for fiscal year 1988-89. The sum appropriated under this section shall be expended by the city and county of Honolulu.

SECTION 5. In the event any provision of this Act is determined to be unconstitutional, the remaining provisions of this Act shall remain in full force and effect.

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SECTION 6. This Act shall take effect upon its approval.

(Approved May 24, 1988.)

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H.B. NO. 2276

A Bill for an Act Relating to Insurance.

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

SECTION 1. Act 347, Session Laws of Hawaii 1987, Section 2, is amended by amending subsection (b) of section 431:9-103 to read as follows:

“(b) A person may be a subagent for any number of principals[, except that a subagent may not be appointed with respect to more than one general agent or domestic insurer for life insurance].”

SECTION 2. Act 347, Session Laws of Hawaii 1987, Section 2 is amended by amending subsection (a) of section 431:9-217 to read as follows:

“(a) To qualify for a solicitor’s license, an applicant must otherwise comply with this article and must:

- (1) Be domiciled in this State;
- (2) Represent only one licensed general agent, subagent, or domestic insurer [except that a]; provided that:
 - (A) A solicitor representing a general agent may also represent that general agent in any subagent capacity to which that general agent is appointed;
 - (B) A solicitor, representing a general agent, subagent, or domestic insurer and licensed for life insurance only or life and disability insurance, may represent one other general agent, subagent, or domestic insurer for the solicitation of other classes of insurance; [provided that insurance] and
 - (C) Insurance used to provide funds to cover burial expenses only, payable to a funeral director, shall not be construed as the same class of insurance as life insurance for the purposes of this subsection;
- (3) Have passed the examination provided for in section 431:9-206 within the immediately preceding two year period.”

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

SECTION 4. This Act shall take effect on July 1, 1988.

(Approved May 24, 1988.)

ACT 98

H.B. NO. 2282

A Bill for an Act Relating to Insurance.

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

SECTION 1. Act 347, Session Laws of Hawaii 1987, Section 2, is amended by amending subsection (b) of section 431:9-231 to read as follows:

“(b) (1) An insurer may so compensate only the following:

- (A) A licensed general agent appointed by it;
 - (B) A licensed subagent appointed by it in accordance with section 431:9-103;
 - (C) A licensed solicitor appointed by it in accordance with section 431:9-104; or
 - (D) A licensed subagent or a licensed solicitor appointed by a general agent under subparagraph (A); provided that a written agreement between the insurer and such general agent authorizing such compensation has been executed.
- (2) A general agent may so compensate only the following:
- (A) Licensed subagents appointed by the general agent;
 - (B) Licensed solicitors appointed by the general agent;
 - (C) Any general agent who is licensed in this State for the same class of insurance; [or]
 - (D) Any licensed nonresident agent or broker[.]; or
 - (E) A life only or life and disability insurance licensed subagent or a licensed solicitor appointed by a general agent under subparagraph (C); provided that a written agreement between the general agent and the general agent under subparagraph (C) authorizing such compensation has been executed.
- (3) A subagent may so compensate only licensed solicitors appointed by the subagent.
- (4) A surplus lines broker may so compensate only the following:
- (A) Licensed subagents appointed by the broker;
 - (B) Licensed solicitors appointed by the broker; or
 - (C) Any general agent who is licensed in this State for the class of insurance involved."

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

SECTION 3. This Act shall take effect on July 1, 1988.

(Approved May 24, 1988.)

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H.B. NO. 2349

A Bill for an Act Relating to Psychology.

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

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

"§26H-4 Repeal dates. (a) The following chapters are hereby repealed effective December 31, 1988:

- [1] Chapter 465 (Board of Psychology)
- [2] (1) Chapter 468E (Board of Speech Pathology and Audiology)
- [3] (2) Chapter 468K (Travel Agencies)
- [4] (3) Chapter 373 (Commercial Employment Agencies)
- [5] (4) Chapter 442 (Board of Chiropractic Examiners)
- [6] (5) Chapter 448 (Board of Dental Examiners)
- [7] (6) Chapter 436E (Board of Acupuncture)

(b) The following chapters are hereby repealed effective December 31, 1989:

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- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448E (Board of Electricians and Plumbers)
- (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
- (4) Chapter 466 (Board of Public Accountancy)
- (5) Chapter 467 (Real Estate Commission)
- (6) Chapter 439 (Board of Cosmetology)
- (7) Chapter 454 (Mortgage Brokers and Solicitors)
- (8) Chapter 454D (Mortgage and Collection Servicing Agents)
- (c) The following chapters are hereby repealed effective December 31, 1990:
 - (1) Chapter 447 (Dental Hygienists)
 - (2) Chapter 453 (Board of Medical Examiners)
 - (3) Chapter 457 (Board of Nursing)
 - (4) Chapter 458 (Board of Dispensing Opticians)
 - (5) Chapter 460J (Pest Control Board)
 - (6) Chapter 462A (Pilotage)
 - (7) Chapter 438 (Board of Barbers)
- (d) The following chapters are hereby repealed effective December 31, 1991:
 - (1) Chapter 448H (Elevator Mechanics Licensing Board)
 - (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
 - (3) Chapter 457B (Board of Examiners of Nursing Home Administrators)
 - (4) Chapter 460 (Board of Osteopathic Examiners)
 - (5) Chapter 461 (Board of Pharmacy)
 - (6) Chapter 461J (Board of Physical Therapy)
 - (7) Chapter 463E (Podiatry)
- (e) The following chapters are hereby repealed effective December 31, 1992:
 - (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
 - (2) Chapter 437B (Motor Vehicle Repair Industry Board)
 - (3) Chapter 440 (Boxing Commission)
- (f) The following chapters are hereby repealed effective December 31, 1993:
 - (1) Chapter 441 (Cemetery and Funeral Trusts)
 - (2) Chapter 443B (Collection Agencies)
 - (3) Chapter 452 (Board of Massage)
 - (4) Chapter 455 (Board of Examiners in Naturopathy)
 - (5) Chapter 459 (Board of Examiners in Optometry)
- (g) The following chapter is hereby repealed effective December 31, 1994:
 - (1) Chapter 465 (Board of Psychology)
- [g] (h) The following chapters are hereby repealed effective December 31, 1997:
 - (1) Chapter 463 (Board of Private Detectives and Guards)
 - (2) Chapter 471 (Board of Veterinary Examiners)."

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

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

(Approved May 24, 1988.)

ACT 100

H.B. NO. 2428

A Bill for an Act Relating to Mortgages.

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

SECTION 1. The legislature finds that the community home mortgage program, established in 1967, has never been implemented. According to the department of budget and finance, this is because the provisions of the law establishing the program are duplicated by the responsibilities of the housing finance and development corporation. Because this program has not been used and does not appear to be needed, no purpose is served by having the authorizing law remain in effect. The purpose of this Act is to repeal this unnecessary law.

SECTION 2. Chapter 361, Hawaii Revised Statutes, is repealed.

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

(Approved May 24, 1988.)

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H.B. NO. 3283

A Bill for an Act Relating to Licenses Issued by the Department of Commerce and Consumer Affairs or Any Board or Commission Thereunder.

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

SECTION 1. Section 487-13, Hawaii Revised Statutes, is amended to read as follows:

“§487-13 Penalties for unlicensed acts. (a) Any person who furnishes commodities or services for which a license, registration, or certificate is required from the department of commerce and consumer affairs or any board or commission thereunder without having such license, registration, or certificate is engaged in an unlawful act or practice and shall be subject to the penalty provided in subsection (b).

(b) Any person who engages in an unlawful act or practice as provided in subsection (a) shall be fined by a sum not less than \$500 nor more than \$2,500 for each unlawful act or practice, which sum shall be collected in a civil suit brought by the office of consumer protection or the department of commerce and consumer affairs.

(c) Any contract for the furnishing of commodities or services by an unlicensed, unregistered, or uncertified person shall be void and shall prevent such person from recovering the contract price or the reasonable value thereof.”

SECTION 2. Section 26-9, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) The director may appoint a complaints and enforcement officer not subject to chapters 76 and 77 who shall facilitate the receipt, arbitration, investigation, prosecution, and hearing of complaints regarding any person who furnishes commodities or services for which a license, registration, or certificate is required from the department or any board or commission thereunder. In representing the State in bringing any action to enjoin unlicensed, unregistered, or uncertified activities, the department of commerce and consumer affairs' attorneys shall be empowered to exercise all authority granted to the attorney general and to the director of the office of consumer protection under sections 487-12, 487-14, 480-3.1, 480-15, 480-15.1, 480-20(c), and 480-22, as such sections now exist and as they may be subsequently amended. The attorneys shall also be empowered to exercise all authority granted to the attorney general and to the responsible attorneys of the various counties under section 92-51 in all cases involving documents and records within the custody or control of the regulated industries complaints office.”

SECTION 3. New statutory material is underscored.

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

(Approved May 24, 1988.)

ACT 102

H.B. NO. 3512

A Bill for an Act Relating to Income Taxation.

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

SECTION 1. 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, [1986,] 1987, as used in this chapter "Internal Revenue Code" means subtitle A, chapter 1 of the federal Internal Revenue Code of 1954 as amended as of December 31, [1986,] 1987, 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 Law which pursuant to this chapter, this section, and sections 235-2.4 and 235-2.5 do not apply or are otherwise limited in application; provided that section 1202 (with respect to deductions for capital gains) of the Internal Revenue Code of 1954 as amended as of December 31, 1986, shall be operative for the purposes of this chapter until March 31, 1987, and shall apply to any capital gains properly taken before April 1, 1987, except that the deduction provided in section 1202(a) shall be [55] fifty-five per cent of the net capital gain.

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 such sections apply, and if such 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 such sections apply where such taxable year begins before January 1, 1978."

SECTION 2. Section 235-2.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The director of taxation may adopt by rule under chapter 91 the rules and regulations promulgated by the United States Secretary of Treasury or a delegate of the Secretary relating to the provisions of subtitle A, chapter 1 or 6, of the Internal Revenue Code operative in this chapter and any administrative provisions of the Internal Revenue Code (subtitle F, sections 6001 to [7852]) 7872) not in conflict with or similar to provisions contained in this chapter or chapter 231 or 232 either by reference or by setting them forth in full."

SECTION 3. Section 235-51, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

"(f) If a taxpayer has a net capital gain for any taxable year to which this subsection applies, then the tax imposed by this section shall not exceed the sum of:

- (1) The tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of:
 - (A) The taxable income reduced by the amount of net capital gain,
or
 - (B) The amount of taxable income taxed at a rate below 7.25 per cent,
plus
- (2) A tax of 7.25 per cent of the amount of taxable income in excess of the amount determined under paragraph (1)[(A)].

This subsection shall apply to individuals, estates, and trusts for taxable years beginning after December 31, 1986."

ACT 102

SECTION 4. Section 235-55.6, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Definitions of qualifying individual and employment-related expenses. For purposes of this section:

- (1) Qualifying individual. The term “qualifying individual” means:
 - (A) A dependent of the taxpayer who is under the age of fifteen and with respect to whom the taxpayer is entitled to a deduction under section 235-54(a),
 - (B) A dependent of the taxpayer who is physically or mentally incapable of caring for oneself, or
 - (C) The spouse of the taxpayer, if the spouse is physically or mentally incapable of caring for oneself.
- (2) Employment-related expenses.
 - (A) In general. The term “employment-related expenses” means amounts paid for the following expenses, but only if such expenses are incurred to enable the taxpayer to be gainfully employed for any period for which there are one or more qualifying individuals with respect to the taxpayer:
 - (i) Expenses for household services, and
 - (ii) Expenses for the care of a qualifying individual.

Such term shall not include any amount paid for services outside the taxpayer's household at a camp where the qualifying individual stays overnight.
 - (B) Exception. Employment-related expenses described in subparagraph (A) which are incurred for services outside the taxpayer's household shall be taken into account only if incurred for the care of:
 - (i) A qualifying individual described in paragraph (1)(A), or
 - (ii) A qualifying individual (not described in paragraph (1)(A)) who regularly spends at least eight hours each day in the taxpayer's household.
 - (C) Dependent care centers. Employment-related expenses described in subparagraph (A) which are incurred for services provided outside the taxpayer's household by a dependent care center (as defined in subparagraph (D)) shall be taken into account only if:
 - (i) Such center complies with all applicable laws, rules, and regulations of this State, and
 - (ii) The requirements of subparagraph (B) are met.
 - (D) Dependent care center defined. For purposes of this paragraph, the term “dependent care center” means any facility which:
 - (i) Provides care for more than six individuals (other than individuals who reside at the facility), and
 - (ii) Receives a fee, payment, or grant for providing services for any of the individuals (regardless of whether such facility is operated for profit). ”

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

SECTION 6. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1987.

(Approved May 24, 1988.)

ACT 103

H.B. NO. 3540

A Bill for an Act Relating to Harbors.

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

SECTION 1. Section 266-27, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

“(c) An unauthorized vessel may be [summarily and administratively] impounded by the department at the sole cost and risk of the owner of the vessel, if such a vessel is not removed after the seventy-two hour period or if during said period the vessel is removed and re-moored in said harbor or any other state harbor without a use permit. [The notice and hearing requirements of chapter 91 shall not be prerequisite to an administrative impoundment.]

(d) Custody of an unauthorized vessel shall be returned to the person entitled to possession upon payment of all fees and costs due, and fines levied by a court. In addition, the department shall, within seventy-two hours of impoundment, send by certified mail, return receipt requested, a notice of impoundment to the registered owner or operator of any unauthorized vessel. The owner or operator of an unauthorized vessel shall have ten days after receipt of notice of impoundment of the vessel to request in writing an administrative hearing. This administrative hearing is solely for the purpose of allowing the owner or operator of an unauthorized vessel to contest the basis given by the department for the administrative impoundment of the vessel. The administrative hearing must be held within seventy-two hours of the department's receipt of the written request. The department shall adopt rules pursuant to chapter 91 to implement the requirement for this post-seizure administrative hearing process.”

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

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

(Approved May 24, 1988.)

ACT 104

H.B. NO. 3560

A Bill for an Act Relating to the Housing Finance and Development Corporation.

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

SECTION 1. Section 516-1, Hawaii Revised Statutes, is amended to read as follows:

“§516-1 Definitions. Unless otherwise clear from the context, as used in this chapter:

[(1) “Authority” means the Hawaii housing authority created by chapter 356.]

“Corporation” means the housing finance and development corporation created by chapter 201E.

[(2)] “Development tract” means a single contiguous area of real property not less than five acres in size which has been developed and subdivided into residential lots, including residential lots which may have been converted¹ to fee

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simple and streets and roadways developed as an integral part of the development tract. Two or more pieces of real property shall be considered as a single contiguous area if they would be contiguous except for the interposition or existence of a road, street, stream, fee lot, or other like interference.

[(3)] "Fair market value" means that amount of money that a purchaser willing, but not obliged, to buy an interest in land would pay an owner willing, but not obliged, to sell it, taking into consideration all uses to which the land is adapted or might in reason be applied.

[(4)] "Fee simple owner" and "fee owner" mean the person who owns the fee simple title to the land which is leased, including a life tenant with a remainder over, vested or contingent, and a holder of a defeasible estate, and the holder's heirs, successors, legal representatives, and assigns.

[(5)] "Lease" means a conveyance of land or an interest in land, by a fee simple owner as lessor, or by a lessee or sublessee as sublessor, to any person, in consideration of a return of rent or other recompense, for a term, measured from the initial date of the conveyance, twenty years or more (including any periods for which the lease may be extended or renewed at the option of the lessee).

[(6)] "Leased fee" and "leased fee interest" means all of the interests of the fee owner, lessor, and all legal and equitable owners of the land which is leased, other than the lessee's interest as defined by this chapter.

[(7)] "Legal and equitable owners" means the fee simple owner and all persons having legal or equitable interests in the fee or in the lessor's leasehold estate, including mortgagees, developers, lienors, and sublessors, and their respective heirs, successors, legal representatives, and assigns.

[(8)] "Lessee" means any person to whom land is leased or subleased, and the lessee's heirs, successors, legal representatives, and assigns.

[(9)] "Lessor" means any person who leases or subleases land to another, and the lessor's heirs, successors, legal representatives, and assigns.

[(10)] The terms "lessor", "lessee", "fee simple owner", "fee owner", and "legal and equitable owners" include individuals, both masculine and feminine, and, except as to the term "lessee", the terms also include corporations, firms, associations, trusts, estates, and the State or its political subdivisions. When more than one person are the lessors, lessees, fee simple owners, fee owners, or legal and equitable owners of a lot, the terms apply to each of them, jointly and severally.

[(11)] "Lot", "houselot", "residential lot", and "residential houselot" mean a parcel of land, two acres or less in size, which is used or occupied or is developed, devoted, intended, or permitted to be used or occupied as a principal place of residence for one or two families.

[(12)] "Offsite improvements" means all physical improvements such as, but not limited to, roads, sewer lines, sewage treatment plants, gutters, curbs, sidewalks, fire hydrants, street lights, land dedicated for public purposes and underground electric cables, constructed or placed in a subdivision off the lots intended for occupancy, which improvements are to be used in common by occupants of all lots adjoining such improvements or by the occupants of all lots for whose benefit the improvements have been constructed or placed.

[(13)] "Onsite improvements" means all physical improvements placed on a residential lot intended for occupancy which improvements are for the benefits of occupants of that lot, including, but not limited to, dwelling units, garages, service buildings, stairs, walkways, driveways, walls, trees, shrubs, landscaping, and pools.

[(14)] "Owner's basis" means the value of the lessor's leased fee interest in the lot that would apply if such interests were normally traded on an open market. The fair market value of the owner's basis shall be established to provide the lessor with just compensation for the lessor's interests in the lot and shall take into

consideration every interest and equity of the lessee in establishing that market value. The value may be determined by either of the following methods, or any other method which is normally used by qualified appraisers in establishing the fair market value of a lessor's leased fee interest in land:

- [(A)] (1) The sum of: (i) the future rental income stream for the lot for the term of the lease discounted to present worth from the expiration date of the lease; and (ii) the value of the lessor's reversionary interest in the lot discounted to present worth from the expiration date of the lease. The discount rate shall be based on the maximum rate of return for insured passbook demand saving account paid by the savings and loan institutions in Hawaii plus three and three-fourths per cent; provided, however, that the discount rate may be modified by mutual agreement of the lessor, lessee, and the [authority] corporation; or
 - [(B)] (2) The current fair market value of the lot, valued as if it were a fee simple lot and as if the fee title were unencumbered, and excluding onsite improvements, established by a market data approach utilizing comparable sales, less the following:
 - [(i)] (A) The value of the lease, including any rights therein, if any, which accrues to the lessee;
 - [(ii)] (B) That percentage of the general enhancement of the neighborhood which has been paid for or contributed directly or indirectly by the lessee;
 - [(iii)] (C) The current replacement cost of that portion of existing offsite improvements, including overhead and profit at prevailing rates, which were paid for or otherwise contributed, directly or indirectly, by the lessee;
 - [(iv)] (D) That percentage of the general enhancement of the development tract and the lot caused by the onsite improvements on the lot paid for, or contributed, directly or indirectly, by the lessee;
 - [(v)] (E) That amount, not otherwise deducted herein, allocated to the lot, which was paid for or otherwise contributed, directly or indirectly by the original lessee, computed at prevailing rates for overhead and profit in developing the development tract established by existing practice in the community; and
 - [(vi)] (F) That amount for fees and costs which would ordinarily be borne by lessor in transferring such interest to lessee, including, but not limited to, attorneys' or realtors' commissions, other costs of sale, and similar fee;
- provided, however, that the values established by any one of the foregoing shall not be duplicated in any one of the other provisions."

SECTION 2. Section 16 of Act 337, SLH 1987, is amended to read as follows:

"Chapters 111, 516, and 519, Hawaii Revised Statutes, are amended by substituting the words "housing finance and development corporation" wherever the words "Hawaii housing authority" appear, and by substituting the word "corporation" wherever the word "authority" appears."

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

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

ACT 105

(Approved May 24, 1988.)

Note

1. So in original.

ACT 105

H.B. NO. 3574

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

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 \$449,493.79, or so much thereof as may be necessary for fiscal year 1988-1989, to the department of the attorney general to pay the balance of the contingent fee and expenses of the law firm of Nash, Railsback and Plessner, in the sum of \$363,450.27, for work it did on behalf of the State in connection with the case of United States v. Exxon Corp. plus interest at the rate of nine percent on the balance of \$363,450.27 for the period from August 7, 1986, until payment.

SECTION 2. The sum appropriated shall be expended by the department of the attorney general for the purposes of this Act.

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

(Approved May 24, 1988.)

ACT 106

S.B. NO. 2003

A Bill for an Act Relating to Travel Agencies.

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

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

“§26H-4 Repeal dates. (a) The following chapters are hereby repealed effective December 31, 1988:

- (1) Chapter 465 (Board of Psychology)
- (2) Chapter 468E (Board of Speech Pathology and Audiology)
- [3) Chapter 468K (Travel Agencies)]
- [4] (3) Chapter 373 (Commercial Employment Agencies)
- [5] (4) Chapter 442 (Board of Chiropractic Examiners)
- [6] (5) Chapter 448 (Board of Dental Examiners)
- [7] (6) Chapter 436E (Board of Acupuncture)
- (b) The following chapters are hereby repealed effective December 31, 1989:
- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448E (Board of Electricians and Plumbers)
- (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)

- (4) Chapter 466 (Board of Public Accountancy)
- (5) Chapter 467 (Real Estate Commission)
- (6) Chapter 439 (Board of Cosmetology)
- (7) Chapter 454 (Mortgage Brokers and Solicitors)
- (8) Chapter 454D (Mortgage and Collection Servicing Agents)
- (c) The following chapters are hereby repealed effective December 31, 1990:
 - (1) Chapter 447 (Dental Hygienists)
 - (2) Chapter 453 (Board of Medical Examiners)
 - (3) Chapter 457 (Board of Nursing)
 - (4) Chapter 458 (Board of Dispensing Opticians)
 - (5) Chapter 460J (Pest Control Board)
 - (6) Chapter 462A (Pilotage)
 - (7) Chapter 438 (Board of Barbers)
 - (8) Chapter 468K (Travel Agencies)
- (d) The following chapters are hereby repealed effective December 31, 1991:
 - (1) Chapter 448H (Elevator Mechanics Licensing Board)
 - (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
 - (3) Chapter 457B (Board of Examiners of Nursing Home Administrators)
 - (4) Chapter 460 (Board of Osteopathic Examiners)
 - (5) Chapter 461 (Board of Pharmacy)
 - (6) Chapter 461J (Board of Physical Therapy)
 - (7) Chapter 463E (Podiatry)
- (e) The following chapters are hereby repealed effective December 31, 1992:
 - (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
 - (2) Chapter 437B (Motor Vehicle Repair Industry Board)
 - (3) Chapter 440 (Boxing Commission)
- (f) The following chapters are hereby repealed effective December 31, 1993:
 - (1) Chapter 441 (Cemetery and Funeral Trusts)
 - (2) Chapter 443B (Collection Agencies)
 - (3) Chapter 452 (Board of Massage)
 - (4) Chapter 455 (Board of Examiners in Naturopathy)
 - (5) Chapter 459 (Board of Examiners in Optometry)
- (g) The following chapters are hereby repealed effective December 31, 1997:
 - (1) Chapter 463 (Board of Private Detectives and Guards)
 - (2) Chapter 471 (Board of Veterinary Examiners)."

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

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

(Approved May 24, 1988.)

ACT 107

S.B. NO. 2046

A Bill for an Act Relating to Pollution Control Facilities.

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

SECTION 1. Section 235-11, Hawaii Revised Statutes, is repealed.

SECTION 2. Section 235-2.3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The following Internal Revenue Code subchapters, parts of subchapters, sections, subsections, and parts of subsections shall not be operative for the purposes of this chapter, unless otherwise provided:

- (1) Subchapter A (sections 1 to 59) (with respect to determination of tax liability), except sections 47 and 48, as amended, as of December 31, 1984[,] (with respect to certain depreciable tangible personal property). For treatment, see section 235-110.7.
- (2) Section 78 (with respect to dividends received from certain foreign corporations by domestic corporations choosing foreign tax credit).
- (3) Section 86 (with respect to social security and tier 1 railroad retirement benefits).
- (4) Section 103 (with respect to interest on state and local bonds). For treatment, see section 235-7(b).
- (5) Section 120 (with respect to amounts received under qualified group legal services plans). For treatment, see sections 235-2.4 and 235-7(a)(9) to (11).
- (6) Section 122 (with respect to certain reduced uniformed services retirement pay). For treatment, see section 235-7(a)(3).
- (7) Subchapter B (sections 141 to 150) (with respect to tax exemption requirements for state and local bonds).
- (8) Section 151 (with respect to allowance of deductions for personal exemptions). For treatment, see section 235-54.
- [9] Section 169 (with respect to amortization of pollution control facilities). For treatment, see section 235-11.
- (10)] (9) Section 196 (with respect to deduction for certain unused investment credits).
- [11)] (10) Subchapter B, part VIII (sections 241 to 250) (with respect to special deductions for corporations), except sections 248 (with respect to organizational expenditures) and 249 (with respect to limitation on deduction of bond premium on repurchase). For treatment, see section 235-7(c).
- [12)] (11) Section 269A (with respect to personal service corporations formed or availed of to avoid or evade income tax).
- [13)] (12) Section 280C (with respect to certain expenses for which credits are allowable).
- [14)] (13) Section 280D (with respect to portion of chapter 45 taxes for which credit or refund is allowable under section 6429).
- [15)] (14) Section 291 (with respect to special rules relating to corporate preference items).
- [16)] (15) Section 367 (with respect to foreign corporations).
- [17)] (16) Section 501(c)(12), (15), (16) (with respect to exempt organizations).
- [18)] (17) Section 515 (with respect to taxes of foreign countries and possessions of the United States).
- [19)] (18) Section 521 (with respect to exemption of farmers cooperatives from tax). For treatment, see section 421-23.
- [20)] (19) Subchapter G (sections 531 to 565) (with respect to corporations used to avoid income tax on shareholders).
- [21)] (20) Subchapter H (sections 581 to 596) (with respect to banking institutions). For treatment, see chapter 241.
- [22)] (21) Section 642(a), (b), and (d) (with respect to special rules for credits and deductions).

- [23] (22) Section 668 (with respect to interest charge on accumulation distributions from foreign trusts).
- [24] (23) Subchapter L (sections 801 to 846) (with respect to insurance companies). For treatment, see sections 431-318 and 431-320.
- [25] (24) Section 853 (with respect to foreign tax credit allowed to shareholders). For treatment, see section 235-55.
- [26] (25) Subchapter N (sections 861 to 999) (with respect to tax based on income from sources within or without the United States), except part IV (sections 991 to 997) (with respect to domestic international sales corporations). For treatment, see sections 235-4, 235-5, and 235-7(b).
- [27] (26) Section 1055 (with respect to redeemable ground rents).
- [28] (27) Section 1057 (with respect to election to treat transfer to foreign trust, etc., as taxable exchange).
- [29] (28) Section 1201 (with respect to alternative tax). For treatment, see section 235-71(a).
- [30] (29) Subchapter Q (sections 1311 to 1351) (with respect to readjustment of tax between years and special limitations).
- [31] (30) Subchapter T (sections 1381 to 1388) (with respect to cooperatives and their patrons). For treatment, see chapter 421."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 4. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1987.

(Approved May 24, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 108

S.B. NO. 2265

A Bill for an Act Relating to a Job-sharing Pilot Project in the Department of Health.

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

SECTION 1. Act 73, Session Laws of Hawaii 1986, is amended by amending sections 2, 3 and 4 to read as follows:

"SECTION 2. There is established a [two-year] four-year job-sharing pilot project to be conducted by the department of health during fiscal years 1986-1987 [and], 1987-1988[;], 1988-1989, and 1989-1990; provided that the department shall not implement the pilot project without first carefully developing its plans, procedures, and guidelines. The department shall initiate the project within one month of establishing the final guidelines or, to the extent practicable, during fiscal year 1986-1987, to allow sufficient notice for recruitment. Job-sharing, for the purpose of this Act, is the voluntary equal division of one full-time permanent position between two employees, each performing one-half of the work required for the permanent position. The two half-time permanent positions resulting from the division of one full-time position shall constitute two job-sharing positions. The department of health shall devote no more than one hundred full-time permanent positions to job-sharing pursuant to this Act and the majority of those positions shall be allocated to neighbor island hospitals. Every work site shall be given the

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opportunity to participate. The department shall administer the pilot project established by this Act and, in consultation with the representatives of the appropriate bargaining units and a representative from all the hospitals operated by the State, shall adopt guidelines for the implementation of this Act.

SECTION 3. The following shall constitute general requirements of the pilot project conducted within the department of health and shall be followed in the implementation of this Act:

- (1) The director of health shall announce the pilot project to all full-time¹ regular employees of the department excluding persons not actually engaged in the nursing profession, and shall solicit the voluntary requests of such personnel who may be interested in participating in the job-sharing pilot project.
- (2) The director of health, in consultation with the recognized employee bargaining units and representatives from the hospitals, shall formulate and adopt guidelines for the implementation of this Act. Employees who respond to the announcement and others who request information shall receive a full written description of the terms of the pilot project when the guidelines are finalized and those desiring to participate may apply to participate in the project. The employees who apply for participation shall obtain the concurrence of their immediate supervisor, other appropriate personnel officers, and the director of health. Those who qualify then shall be interviewed by a personnel officer of the department. Participation shall be for fiscal year 1986-1987 [or], 1987-88, 1988-89, and 1989-90 except as provided in paragraph (6). It is recommended that not more than fifty per cent of the eligible personnel at any institution or work site be accepted to participate in the project. It is further recommended that, when sufficient eligible applicants are available, not less than twenty-five per cent of the personnel at any institution or work site be accepted to participate in the project.
- (3) Upon the selection of a permanent, full-time employee for job-sharing under this Act, the director of health, for the purposes of this Act, shall convert the position of the employee into two job-sharing positions, one of which shall be filled by the employee, and the other which shall be filled by either another permanent employee or a person hired under this Act.
- (4) Persons hired to fill job-sharing positions shall be recruited in accordance with this Act; provided that any person hired for a job-sharing position shall possess the minimum requirements of the full-time position which was converted to job-sharing positions under this Act.
- (5) Job-sharing, for the purpose of this Act, is the voluntary sharing of a full-time, permanent employee's position with another employee, with each working one-half of the total number of hours of work required per month, and each receiving one-half of the salary to which each is respectively entitled and at least one-half of each employee benefit afforded to full-time employees.

The full-time, permanent employee shall not lose membership in an employee bargaining unit because of participation in this project, any law to the contrary notwithstanding. Union membership or service fees paid by job-sharers under this Act shall be at a level consistent with normal union membership dues or service fees. The State's contribution to a job-sharer's prepaid health, prepaid dental, and any group life insurance plans shall be the same as for full-time employees, any

other provision of law to the contrary notwithstanding. Job-sharers shall be covered under chapter 386, Hawaii Revised Statutes, and the applicable provisions of chapter 383, Hawaii Revised Statutes. Service credit for permanent employees participating in the pilot project under this Act shall be given on the same basis as that for full-time employees. Nothing in this Act shall be construed, however, to vest any person with any rights to permanent employment status, whether under civil service or otherwise, which did not exist prior to the participation of the person in the job-sharing pilot project. No full-time position shall be abolished or reduced to a half-time position as a result of this Act, except for the purpose of job-sharing, and only for the time allowed for the project by this Act. In a reduction-in-force procedure, consideration of a job-sharer's retention points shall be on the same basis as that of a full-time employee. Nothing in this Act shall impair the employment or employment rights or benefits of any employee.

- (6) Participation in the pilot project shall require the commitment in² the part of all parties to a contractual agreement; provided that the employee shall be given the option to contract for one or more years.
- (7) No job-sharing position created under this Act and committed for a specified period of time under the terms of the contractual agreement shall be converted to full-time status before the termination of the contractual agreement. A job-sharing vacancy created by the resignation, retirement, or other permanent or temporary severance of employment with the department of health on the part of any person shall not be converted to full-time status until termination of the contractual agreement and shall be filed² immediately through recruitment of another person pursuant to this Act.
- (8) Upon the termination of contractual agreements under this Act, all job-sharing positions shall be reconverted to full-time positions, and the employees who held the full-time positions prior to their participation in the pilot project shall be entitled to resume their positions without loss of any employee rights.

SECTION 4. The office of the legislative auditor shall monitor and evaluate the pilot project, with particular regard to the efficacy of the job-sharing concept, and shall evaluate factors such as turnover rates, absenteeism, productivity, morale, and demographic factors such as ethnicity, sex, and age composition of participants, and other pertinent data.² The office of the legislative auditor shall submit status reports on its findings to the legislature prior to the convening of the regular sessions of 1987 and 1988 and shall submit a report to the legislature on its findings and recommendations prior to the convening of the regular session of [1989.] 1990."

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

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

(Approved May 24, 1988.)

Notes

1. Prior to amendment, "," appeared here.
2. So in original.

ACT 109

S.B. NO. 2790

A Bill for an Act Relating to Contractors.

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

SECTION 1. Section 444-12, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Every application for a license hereunder shall be accompanied by an application fee [of \$25.] as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91.”

SECTION 2. Section 444-15, Hawaii Revised Statutes, is amended to read as follows:

“§444-15 Fees; biennial renewals. (a) The fees for each [original] license and biennial renewal thereof prescribed by this chapter shall be [as follows:

(1)	Original license fee	
	License to act as specialty contractor	\$100
	License to act as general engineering contractor	\$200
	License to act as general building contractor	\$200
(2)	Original license fee for responsible management employee (RME)	
	License to act as RME in specialty contracting	\$100
	License to act as RME in general engineering contracting	\$200
	License to act as RME in general building contracting	\$200
(3)	Renewals	
	Renewal of specialty contractor's license	\$ 50
	Renewal of general engineering contractor's license	\$150
	Renewal of general building contractors' license	\$150
	Renewal of RME for all classifications	\$ 50
(4)	Reissuance of a license or issuance of a certified copy of license	\$ 5
(5)	Application for additional classifications (Fee shall be charged for each application. More than one classification may be requested on a single application without additional fees.)	
	\$ 25
(6)	Inactive license fee (in lieu of renewal fee)	\$ 20]

as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91.

(b) The biennial fee or inactive license fee shall be paid to the contractors license board on or before April 30 of each even-numbered year. Failure, neglect, or refusal of any licensee to pay the biennial renewal fee and submit all documents requested by the board before such date shall constitute a forfeiture of the licensee's license. Any such license may be restored upon written application therefor within sixty days from such date and the payment of the required fee plus an amount equal to ten per cent thereof.

Upon written request of a licensee, the board may place that person's active license in an inactive status. The license, upon payment of the inactive license fee, may continue inactive for the biennial period. Failure, neglect, or refusal of any licensee in inactive status to pay the inactive license fee shall constitute a forfeiture of the license. The license may be reactivated at any time during the biennial period by making written request to the board and by fulfilling all the requirements, including the payment of the appropriate fees.”

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

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

(Approved May 24, 1988.)

ACT 110

S.B. NO. 2794

A Bill for an Act Relating to Medicine and Surgery.

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

SECTION 1. Section 453-2, Hawaii Revised Statutes, is amended to read as follows:

“§453-2 License required; exceptions. Except as otherwise provided by law, no person shall practice medicine or surgery in the State either gratuitously or for pay, or shall offer to so practice, or shall advertise or announce one's self, either publicly or privately, as prepared or qualified to so practice, or shall append the letters “DR.” or “M.D.” to one's name, with the intent thereby to imply that the individual is a practitioner of medicine or surgery, without having a valid unrevoked license or a limited and temporary license, obtained from the board of medical examiners, in form and manner substantially as hereinafter set forth.

Nothing herein shall:

- (1) Apply to so-called Christian Scientists so long as they merely 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 [army, navy, marine corps,] armed forces or public health service, engaged in the discharge of one's official duty, nor to any practitioner of medicine and surgery from another state when in actual consultation with a licensed practitioner of this State if the practitioner from another state, at the time of such consultation, is licensed to practice in the state in which the practitioner resides; provided that the practitioner from another state shall not open an office, or appoint a place to meet patients, or receive calls within the limits of the State; and provided further that the laws and regulations relating to contagious diseases are not violated; or
- (4) Prohibit services rendered by any person certified under part II of this chapter to provide emergency medical services or any physician assistant when such services are rendered under the direction and control of a 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. Such direction and control shall not be construed in every case to require the personal presence of the supervising and controlling physician. Any physician who employs or directs a person certified under part II of this chapter to provide emergency medical services or physician assistant shall retain full professional and personal responsibility for any act which constitutes the practice of medicine when performed by such person or physician assistant.”

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SECTION 2. Section 453-3, Hawaii Revised Statutes, is amended to read as follows:

“§453-3 Limited and temporary licenses. The board of medical examiners shall issue a limited and temporary license to an applicant who has not been examined as required by section 453-4, and against whom no disciplinary proceedings are pending in any state or territory, if the applicant is otherwise qualified to be examined, and upon determination that:

- (1) There is an absence or a shortage of licensed physicians in a particular locality, and that the applicant has been duly licensed as a physician by written examination under the laws of another state or territory of the United States. A limited and temporary license issued hereunder shall permit the practice of medicine and surgery by the applicant only in the particular locality, and no other, as shall be set forth in the license issued to the applicant. The license shall be valid only for a period of eighteen months from the date of issuance. The board shall establish guidelines to determine a locality with an absence or shortage of physicians. For this purpose, the board may consider a locality to have an absence or shortage of physicians if the absence or shortage results from the temporary loss of a physician. In designating a locality with an absence or shortage of physicians, the board shall not delegate its authority to a private organization;
- (2) The applicant is to be employed by an agency or department of the state or county government, and that the applicant has been duly licensed as a physician by written examination under the laws of another state or territory of the United States. A limited and temporary license issued hereunder shall only be valid for the practice of medicine and surgery while the applicant is in the employ of such governmental agency or department and in no case shall be used to provide private patient care for a fee. A license issued under this paragraph may be renewed from year to year;
- (3) The applicant would practice medicine and surgery only while under the direction of a physician regularly licensed in the State other than as permitted by this section, and that the applicant intends to take the regular licensing examination conducted by the board within the next eighteen months. In no case shall a limited and temporary license issued hereunder be valid for more than a period of eighteen months from the date of issuance;
- (4) The applicant has been appointed as a resident or accepted for specialty training in a hospital approved by the board, and that the applicant shall be limited in the practice of medicine and surgery to the extent required by the duties of the applicant's position or by the program of training while at the hospital. [A limited and temporary license hereunder shall be issued without regard to the requirement of section 453-4(4) relative to residency.] The license shall be valid during the period in which the applicant remains as a resident in training, and may be renewed from year to year during the period; or
- (5) A public emergency exists, and that the applicant has been duly licensed as a physician by written examination under the laws of another state or territory of the United States. A limited and temporary license issued hereunder shall only be valid for the period of such public emergency.

Nothing herein requires the registration or licensing hereunder of nurses, or other similar persons, acting under the direction and control of a licensed physician.”

SECTION 3. Section 453-4, Hawaii Revised Statutes, is amended to read as follows:

“§453-4 Qualifications for examination[.] and licensure. (a) Except as otherwise provided by law, no person shall be licensed to practice medicine or surgery unless the applicant has passed an examination and has been found to be possessed of the necessary qualifications.

(b) Before any applicant shall be eligible for the examination, the applicant shall furnish proof satisfactory to the board that:

- (1) The applicant is of demonstrated competence and professional knowledge;
- (2) (A) The applicant is a graduate of a medical school or college whose program leading to the M.D. degree is accredited by the Liaison Committee on Medical Education, and has served a residency of at least one year in a program which has been accredited for the training of resident physicians by the Accreditation Council for Graduate Medical Education, or if outside the United States, in a program which is shown by the applicant to the satisfaction of the board to possess standards substantially the equivalent of those required for such accreditation by the Accreditation Council for Graduate Medical Education; or
- (B) The applicant is a graduate of a foreign medical school and has had at least two years of residency in a program accredited by the Accreditation Council for Graduate Medical Education, and:
 - (i) Holds the national certificate of the Educational Commission for Foreign Medical Graduates, or its successor; or
 - (ii) Holds the certificate of the Fifth Pathway Program of the American Medical Association.

(c) Diplomates of the National Board of Medical Examiners or those who have passed the federation licensing examination (FLEX) with scores deemed satisfactory by the board, and who meet the requirements of subsection (b) shall be licensed without the necessity of any further examination; provided that with respect to any applicant the board may require letters of evaluation, professional evaluation forms, and interviews with chiefs of service or attending physicians who have been associated with an applicant, or chief residents on a service who have been associated with an applicant during the applicant's training or practice, to be used by the board in assessing the applicant's qualifications to practice medicine.”

SECTION 4. Section 453-5.3, Hawaii Revised Statutes, is amended by amending subsections (d) and (g) to read as follows:

“(d) The board shall approve temporary certification of an applicant under this section if the applicant has graduated from a board approved training program within twelve months of the date of application and has never taken a national certifying examination approved by the board but otherwise meets the requirements of this section, has filed a complete application with the board, and has paid all required fees. If the applicant fails to apply for, or to take, the next succeeding examination or fails to pass the examination or fails to receive a certificate, all privileges under this section shall automatically cease upon written notification sent to the applicant by the board. A temporary certificate may be issued only once to each person.

(g) The certification of a physician assistant shall be subject to revocation, limitation, or suspension under section 453-8[.] and an application for certification may be denied for the same reasons.”

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SECTION 5. Section 453-6.5, Hawaii Revised Statutes, is repealed.

SECTION 6. Section 453-8, Hawaii Revised Statutes, is amended to read as follows:

"§453-8 Revocation, limitation, suspension, or denial of licenses. (a)

Any license to practice medicine and surgery may be revoked, limited, or suspended by the board of medical examiners at any time in a proceeding before the board, or may be denied, for any one or more of the following acts or conditions on the part of the holder of such license or the applicant therefor:

- (1) Procuring, or aiding or abetting in procuring, a criminal abortion;
 - (2) Employing any person to solicit patients for one's self;
 - (3) Engaging in false, fraudulent, or deceptive advertising, including, but not limited to:
 - (A) Making excessive claims of expertise in one or more medical specialty fields;
 - (B) Assuring a permanent cure for an incurable disease; or
 - (C) Making any untruthful and improbable statement in advertising one's medical or surgical practice or business;
 - (4) 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;
 - (5) Practicing medicine while the ability to practice is impaired by alcohol, drugs, physical disability, or mental instability;
 - (6) Procuring a license through fraud, misrepresentation, or deceit or knowingly permitting an unlicensed person to perform activities requiring a license;
 - (7) Professional misconduct, gross negligence, or manifest incapacity in the practice of medicine or surgery;
 - (8) Incompetence or multiple instances of negligence, including, but not limited to, the consistent use of medical service which is inappropriate or unnecessary;
 - (9) Conduct or practice contrary to recognized standards of ethics of the medical profession as adopted by the Hawaii Medical Association or the American Medical Association;
 - (10) Violation of the conditions or limitations upon which a limited or temporary license is issued;
 - (11) Revocation, suspension, or other disciplinary action by another state or federal agency of a license, [or] certificate, or medical privilege for reasons as provided in this section;
 - (12) Conviction, whether by nolo contendere or otherwise, of a penal offense substantially related to the qualifications, functions, or duties of a physician, notwithstanding any statutory provision to the contrary;
 - (13) Violation of chapter 329, uniform controlled substance act, or any rule adopted thereunder;
 - (14) Failure to report to the board, in writing, any disciplinary decision issued against the licensee or the applicant in another jurisdiction within thirty days after the disciplinary decision is issued; or
 - (15) 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 or omission of fact.
- (b) If any license is revoked, limited, suspended, or denied by the board for any act or condition listed in this section, the board shall notify the holder of, or the applicant for, the license in writing of the revocation, limitation, suspension,

or denial. Any license to practice medicine and surgery which has been revoked under this section may be restored by the board.”

SECTION 7. Section 453-32.5, Hawaii Revised Statutes, is amended to read as follows:

“§453-32.5 Temporary certification. The board shall approve temporary certification of an applicant under section 453-32 if the applicant has graduated from a board approved training program within twelve months of the date of application and has never taken the written and practical examination of the National Registry of Emergency Medical Technicians for that level of practice but otherwise meets the requirements of section 453-32, has filed a complete application with the board, and has paid all required fees.

If the applicant fails to apply for, or to take, the next succeeding examination or fails to pass the examination or fails to receive a certificate, all privileges under this section shall automatically cease upon written notification sent to the applicant by the board. A temporary certificate for each level of practice may be issued only once to each person.

Prior to practicing under temporary certification, applicants shall notify the board in writing of any and all employers under whom they will be performing services.”

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

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

(Approved May 24, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 111

S.B. NO. 2797

A Bill for an Act Relating to Podiatrists.

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

SECTION 1. Section 463E-1, Hawaii Revised Statutes, is amended by amending the definition of “podiatry” to read as follows:

“ “Podiatry” means the medical, surgical, mechanical, manipulative, and electrical diagnosis and treatment of the human foot, including the nonsurgical treatment of the muscles and tendons of the leg governing the functions of the foot, but does not include any amputation, treatment of [systematic] systemic conditions, or the use of any anesthetic except local anesthetic.”

SECTION 2. Section 463E-4, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

“(c) The board may accept the certificate or evidence of passage of the National Board of [Podiatry] Podiatric Medical Examiners or an equivalent testing agency in lieu of and as equivalent to part or all of its own written examination.

(d) The written examination shall be secured from and corrected by the

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National Board of [Podiatry] Podiatric Medical Examiners or an equivalent testing agency. The board, in addition may administer a written examination of podiatric medical clinical competency which may include portions which address the basic sciences and clinical sciences that support the clinical practice of podiatric medicine.”

SECTION 3. Section 463E-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any license to practice podiatry may be revoked or suspended by the board of medical examiners at any time in a proceeding before the board, or may be denied, for any one or more of the following acts or conditions on the part of the holder of the license or the applicant therefor:

- (1) Employing what is popularly known as a “capper” or “steerer”;
- (2) Obtaining any fee on the assurance that a manifestly incurable disease can be permanently cured;
- (3) Wilfully betraying a professional secret;
- (4) Advertising one’s podiatrist business with any untruthful and improbable statement;
- (5) False or fraudulent advertising;
- (6) Procuring a license through fraud, misrepresentation, or deceit, or knowingly permitting an unlicensed person to perform activities requiring a license;
- (7) Violation of section 453-2;
- (8) Professional misconduct or gross [carelessness] negligence or manifest incapacity in the practice of podiatry;
- (9) Engaging in the practice of podiatry other than as defined in section 463E-1;
- (10) Being habituated to the excessive use of drugs or alcohol; or being addicted to, dependent on, or a habitual user of a narcotic, barbiturate, amphetamine, hallucinogen, or other drug having similar effect;
- (11) Practicing medicine while the ability to practice is impaired by alcohol, drugs, physical disability, or mental instability;
- (12) [Negligence or incompetence,] Incompetence or multiple instances of negligence, including, but not limited to, the consistent use of medical service which is inappropriate or unnecessary;
- (13) Revocation, suspension, or other disciplinary action by another state or federal agency of a license or practice privilege for reasons as provided in this section;
- (14) Conviction, whether by nolo contendere or otherwise, of a penal offense substantially related to the qualifications, functions, or duties of a podiatrist, notwithstanding any statutory provision to the contrary;
- (15) Violation of chapter 329, uniform controlled substance act, or any [regulation promulgated] rule adopted thereunder;
- (16) Failure to report to the board, in writing, any disciplinary action taken against the licensee in another jurisdiction within thirty days after the disciplinary action becomes final; or
- (17) 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 or omission of fact.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved May 24, 1988.)

ACT 112

S.B. NO. 1471

A Bill for an Act Relating to a Veterans' Memorial.

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

SECTION 1. Findings. The legislature finds that the patriotism and bravery of the veterans of the Korean and Vietnam conflicts should be commemorated in permanent public memorials located on a single site.

SECTION 2. Purpose. The purpose of this Act is to establish a commission whose function is to plan and select works of art for permanent public memorials to the veterans of the Korean and Vietnam conflicts as well as to select a memorial site.

SECTION 3. Establishment and composition of commission. There is established a commission whose function is to plan and select works of art for memorials to the veterans of the Korean and Vietnam conflicts as well as to select a site for the memorials. The commission shall be composed of nine members appointed by the governor, and shall include veterans from these conflicts; of the nine members, three shall be selected from a list of persons nominated by the speaker of the house of representatives, and three shall be selected from a list of persons nominated by the senate president. Confirmation of commission members shall not be required.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$20,000 or so much thereof as may be necessary for fiscal year 1988-1989, to be expended by the department of accounting and general services to effectuate the purposes of this Act.

SECTION 5. This Act shall take effect on July 1, 1988.

(Approved May 26, 1988.)

ACT 113

H.B. NO. 1700

A Bill for an Act Relating to the University of Hawaii.

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

SECTION 1. Section 304-14.7, Hawaii Revised Statutes, is amended to read as follows:

"[§304-14.7] Tuition waiver for veterans. (a) Subject to this section, the board of regents shall waive all tuition fees for the regular academic year for any veteran of the armed forces of the United States of America who:

- (1) Served in the Southeast Asia theater of conflict during the Vietnam era;
- (2) Was discharged from the armed forces of the United States of America under conditions other than dishonorable;

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- (3) Is not eligible, at the time of application for a waiver under this section, for educational benefits under any federal veterans benefit program;
- (4) Is an undergraduate student working towards a degree on any campus of the University of Hawaii; and
- (5) Is a resident of the State of Hawaii, as defined by the board of regents under section 304-4.

(b) For the purpose of this section:

“Regular academic year” means the September to May academic year of the day program;

“Vietnam era” means the period from August 5, 1964, to May 7, 1975.

(c) No person shall be granted tuition waivers for more than five regular academic years. No tuition shall be waived for courses offered under the programs of the college of continuing education and community services. No tuition waiver shall be granted for any regular academic year which begins after September [1990.] 1993.

(d) To be eligible for a tuition waiver, an applicant shall obtain certification from the [federal] United States Veterans Administration that the veteran meets the qualifications under subsection (a)(1), (2), and (3) and present the certification to the university at the time of application for the waiver.

[e] (e) A tuition waiver under this section shall be considered a financial aid unit for the purpose of computing the maximum allowable financial aid units authorized for an academic year under section 304-17.

(f) (e) The board of regents may request the [federal] United States Veterans Administration to submit reports periodically on the impact and benefit of the tuition waivers granted under this section.

[g] (f) The board of regents may adopt, amend, and repeal rules in accordance with chapter 91 which are necessary for the implementation of this section.

(g) Tuition waivers granted under this section shall be in addition to any tuition waivers authorized under this chapter.

(h) This section is repealed on June 30, [1991.] 1994.”

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

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

(Approved May 26, 1988.)

ACT 114

H.B. NO. 225

A Bill for an Act Relating to a Veterans Cemetery.

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 \$675,000, or so much thereof as may be necessary for fiscal year 1988-1989, to be applied to the planning, design, development, and construction of a state veterans cemetery on Oahu.

SECTION 2. The sum appropriated shall be expended by the department of defense for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 1988.

(Approved May 26, 1988.)

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H.B. NO. 2532

A Bill for an Act Relating to Veterans.

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

SECTION 1. Since Hawaii's annexation to the United States, its veterans have maintained their proud allegiance to the United States and have fought and died to protect our country's freedom. Presently there are approximately 102,000 veterans living in Hawaii, including more than 400 World War I veterans, 33,000 World War II veterans, 21,000 veterans of the Korean Conflict, and 37,000 veterans of the Vietnam Conflict.

Currently, programs to deliver services and benefits to veterans in Hawaii are administered by several state agencies, including the University of Hawaii, the department of land and natural resources, the department of human services, the department of labor and industrial relations, and the department of budget and finance. It is in the public interest to centralize delivery of those services and benefits, and place the administration of as many programs for that purpose into a single state office. This Act initiates that process of centralization by creating the office of veterans' services, and transferring responsibility for some of the existing veterans programs to that office.

SECTION 2. 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.

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 in the absence of the director of civil defense 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.

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 3. Section 363-1, Hawaii Revised Statutes, is amended as follows:

(1) By adding a definition of "director" to read as follows:

"Director" means the director of the office of veterans' services."

(2) By adding a definition of "office" to read as follows:

"Office" means the office of veterans' services as constituted under this chapter."

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(3) By repealing the definition of "department":
[""Department" means the department of human services."]

SECTION 4. Section 363-2, Hawaii Revised Statutes, is amended to read as follows:

"§363-2 [Duties of the department. The department of human services]

Office of veterans' services; director. (a) The office of veterans' services shall be responsible for the conduct or supervision of all activities provided for by this chapter and for the formulation and adoption of all policies[,] and rules[, and regulations] for the administration of this chapter[.] and is established in the department of defense for administrative purposes.

(b) The head of the office shall be known as the director of the office of veterans' services. The director shall be nominated and appointed by the governor without regard to chapters 76, 77, and 89. Effective July 1, 1988, the salary of the director shall be \$40,000 annually. The director shall be included in any benefit program generally applicable to the officers and employees of the State.

(c) The director shall have the following principal functions, duties, and powers:

- (1) Serve as the principal official in state government responsible for the performance, development, and control of programs, policies, and activities under this chapter;
- (2) Oversee, supervise, and direct the performance by the director's subordinates of activities in such areas as planning, evaluation, and co-ordination of veterans programs and development of a statewide service delivery network;
- (3) Assess the policies and practices of other agencies with respect to delivery of services and benefits to veterans;
- (4) Administer funds allocated for the office, and apply for, receive, and disburse grants and donations from all sources for veterans programs and services provided under this chapter;
- (5) Establish a clearinghouse for complaints of persons regarding services to veterans, or operations of state and county agencies affecting veterans, investigate such complaints, and refer the complaints and the director's findings to the appropriate agency for corrective action;
- (6) Adopt, amend, and repeal rules pursuant to chapter 91 for the purposes of this chapter;
- (7) Employ and retain such staff as may be necessary for the purposes of this chapter, in conformance with chapters 76, 77, and 89 except for the position of coordinator and executive secretary to the director, who shall be hired without regard to chapters 76, 77, and 89; and
- (8) Contract for or grant such services as may be necessary for the purposes of this chapter, including a master contract with other state agencies receiving federal and state funds for programs and services for veterans, and purchase of service agreements with appropriate agencies; and
- (9) Oversee the development, establishment, and operation of a state veterans cemetery on Oahu; develop and administer the policies and procedures of the state veterans cemetery in accordance with the United States Veterans Administration and existing state guidelines; oversee the maintenance of state veterans cemeteries on all islands."

SECTION 5. Section 363-3, Hawaii Revised Statutes, is amended to read as follows:

"§363-3 Activities of the [department.] office. Except as otherwise provided by law, the [department of human services] office shall:

- (1) Maintain or cause to be maintained, subject to the control and supervision of the [department,] office, a center to which veterans, their families and dependents may come for information, counsel, aid, and assistance, and by which they may be directed or referred to any agency in the community whose function it is, by law or otherwise, to provide the services, assistance, or benefits which in each instance appear necessary or appropriate. Agencies to which any referrals may be made shall include, but are not limited to, departments and divisions of the federal and state governments, veterans' organizations, and so-called "private" social agencies.
- (2) Assume the initiative, in cooperation with agencies in the community, for coordinating all services now available, and which hereafter may become available, for the use and benefit of veterans, their families and dependents, to the end that maximum effectiveness of the services may be realized and overlapping and duplication of effort as between agencies may be minimized.
- (3) Assemble, analyze, compile, and disseminate factual up-to-date information with respect to (A) benefits, rights, and services of whatever nature to which veterans, their families and dependents are entitled or which may be available to them, (B) the structure, functions, area of service, and other pertinent information regarding each agency and organization participating in the veterans' assistance program in the State.
- (4) Cooperate with federal departments and other agencies which by law have responsibility for administration of rights and benefits granted by the federal government to veterans, their families and dependents.
- (5) As soon as may be after the close of each fiscal year, compile and submit to the governor, for such use or distribution as the governor may deem appropriate, a comprehensive report of the activities and operations of the [department] office and of all disbursements and expenditures authorized by it hereunder."

SECTION 6. Section 363-11, Hawaii Revised Statutes, is amended to read as follows:

"§363-11 Special housing for disabled veterans. The [department] office shall develop rules to specify the amount to be provided a veteran for the purpose of bearing the cost not borne by the federal government for a specially designed home for disabled veterans. The veteran must have been a bona fide resident of the State before entering active service with the armed forces and must qualify for a federal grant under the Veterans Administration's Specially Adapted Housing program. In no event shall the State pay a qualified veteran a share greater than the federal government toward the purchase or remodeling of such home.

The moneys provided shall be expended only on vouchers drawn by the comptroller based on application therefor approved by the [department of human services] office in accordance with this section, to the extent permitted by the applicable appropriation."

SECTION 7. Chapter 363, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§363- Advisory board on veterans' services; appointment; duties. (a) There shall be a policy advisory board on veterans' services. The board shall consist of seven members appointed by the governor as provided in section 26-34. Five

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members shall be veterans, and there shall be at least one member residing in each of the counties except Kalawao county. The director of health, the director of human services, the director of labor and industrial relations, and the adjutant general shall serve as ex-officio members. The chairperson of the board shall be elected by the majority of the board. The members shall serve without compensation but shall be allowed their actual and necessary expenses incurred in the performance of their duties.

(b) The advisory board shall advise the director in, but not limited to, the following areas:

- (1) The identification of issues and alternative approaches to solutions;
- (2) The development of position statements and papers;
- (3) Advocacy and legislative actions; and
- (4) Program development and operations."

SECTION 8. 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 transferred under this Act shall suffer any loss of civil service status, 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 privilege and without the necessity of examination; provided that such an officer or employee possesses the minimum qualifications for the position to which transferred or appointed.

In the event that 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.

SECTION 9. All appropriate records, equipment, files, supplies, contracts, books, papers, documents, maps, authorizations, and other property heretofore made, used, acquired, or held in conjunction with activities transferred by this Act shall be transferred with the activities to which they relate.

SECTION 10. All funds appropriated for the 1987-1989 fiscal biennium, directly or indirectly, relating to the activities transferred under this Act shall be appropriately transferred to the state department of defense with the activities to which they relate.

SECTION 11. There is appropriated out of the general revenues of the State of Hawaii the sum of \$184,000, or so much thereof as may be necessary for fiscal year 1988-1989, to the office of veterans' services for expenditures to include, but not be limited to the following: clerical, professional and technical support services

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staff, office equipment and supplies, and other current expenses. The sum appropriated shall be expended by the department of defense for the purposes of this Act.

SECTION 12. It is the intent of this Act to neither jeopardize the receipt of any federal aid nor impair the obligation of the State or agency thereof to persons with which it has existing contracts, and to the extent, and only to the extent, necessary to effectuate this intent, the governor may modify the strict provisions of this Act, but shall promptly report any such modification with reasons therefor to the legislature at its next session thereafter for review by the legislature.

SECTION 13. All laws and parts of laws heretofore enacted which are in conflict with the provisions of this Act are hereby amended to conform to this Act.

SECTION 14. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 15. This Act shall take effect on July 1, 1988.

(Approved May 26, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 116

H.B. NO. 2042

A Bill for an Act Making an Appropriation for Sugar Research and Development.

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

SECTION 1. The legislature finds that the sugar industry is the largest agricultural industry in Hawaii and is a vital component of the State's economic base. The sugar industry is the State's third largest source of export income and provides thousands of high-paying jobs. The legislature further finds that the sugar industry continues to experience adverse economic conditions, and it is in the public interest to continue the measures enacted in prior years to assist and save the sugar industry.

The purpose of this Act is to provide funds for research performed by the industry and thereby offset the costs to the industry.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$3,000,000, or so much thereof as may be necessary for fiscal year 1988-1989, for sugar research and development, provided that no funds shall be made available under this Act unless the Hawaiian Sugar Planters' Association provides a dollar for dollar match of funds for the purpose for which this sum is appropriated.

SECTION 3. The sum appropriated shall be expended by the governor's agriculture coordinating committee for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 1988.

(Approved May 27, 1988.)

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ACT 117

H.B. NO. 2127

A Bill for an Act Relating to Fishing Fees.

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

SECTION 1. Section 188-37, Hawaii Revised Statutes, is amended to read as follows:

“§188-37 Fishing in the Northwestern Hawaiian Islands. (a) The department of land and natural resources may adopt rules relating to the taking of marine life in the Northwestern Hawaiian Islands, where, in the judgment of the department the action will not deplete the stocks of marine life in the area; the rules may include open and closed seasons, size limits, methods and appliances, and establishment of permits for taking marine life.

(b) Those islands, reefs, and shoals, as well as their respective appurtenant reefs and territorial waters, of the Hawaiian Islands chain beginning and including Nihoa Island to and including Kure Island shall be referred to as the Northwestern Hawaiian Islands.

(c) The department may issue permits to those persons with a valid commercial marine license issued pursuant to section 189-2 who own or operate a vessel deemed capable by the department for effectively taking marine life within the Northwestern Hawaiian Islands, and whenever the department deems necessary, it may limit the number of permits issued to take marine life in any particular area and such limitation shall be on the basis of the order of application for permits. Issuance of permits shall be limited to persons utilizing methods or appliances approved by rule of the department, which need not be legal elsewhere within the State, and these permittees may take species of marine life, when and as approved by rule of the department. The fee for the Northwestern Hawaiian Islands taking permit [is \$1.] shall be established by the department by rules adopted in accordance with chapter 91. The department shall set the fee in an amount that, when combined with the fees provided for in sections 188-50 and 189-2, shall be reasonably necessary to supplement the funding for:

- (1) Enforcement of this chapter and section 189-2; and
- (2) The activities set forth in section 187A-11.

The department may revoke any permit for any infraction of the terms and conditions of the permit. Any person whose permit has been revoked shall not be eligible to apply for another permit until the expiration of one year from the date of revocation.”

SECTION 2. Section 188-50, Hawaii Revised Statutes, is to read as follows:

“§188-50 License; application; fees; restrictions. (a) It is unlawful for any person, except children below nine years of age, to fish, take, or catch any introduced fresh water game fish without first obtaining a license. Children exempt by this section may fish, provided they are accompanied by a licensed person. The department of land and natural resources may adopt rules pursuant to chapter 91 necessary for the purposes of this chapter and to set fees for fresh water game fish fishing.

(b) The licenses shall be issued by agents of the department of land and natural resources upon written application in such form as may be prescribed by the department together with payment of a fee [as hereinafter prescribed]. The application shall require a statement under oath of the applicant's name, address, domicile or residence, length of residence in the State, age, race, height, weight, and color of hair and eyes. All licenses shall expire and become void [on June 30,

following] one year from the date of issuance, except the tourist license which shall expire and become void thirty days after the date of issuance; provided that no fees or charges shall be made for licenses issued to persons sixty-five years of age and older. A duplicate license may be issued upon affidavit that the original license has been lost or destroyed and upon the payment of [50 cents.

The fee schedule for licenses shall be as follows:

- (1) All minors between nine and fifteen years of age, \$1.50 each;
- (2) A resident of the State for at least one year, and over fifteen years of age, \$3.75;
- (3) Persons not qualifying under (2) but over fifteen years of age, \$7.50, except that,
 - (A) Any member of the armed forces of the United States on active duty in the State whether qualifying as a resident under (2) or not, and the spouse and children fifteen years of age and over of the member, \$3.75.
 - (B) Tourist license which is valid for only thirty days from the date of issue, \$3.75.]

a duplicate license fee. The fees for licenses and duplicate licenses shall be established by the department by rules adopted in accordance with chapter 91. The department shall set the fees in an amount that, when combined with the fees provided for in sections 188-37 and 189-2, shall be reasonably necessary to supplement the funding for:

- (1) Enforcement of this chapter and section 189-2; and
- (2) The activities set forth in section 187A-11.

(c) No person to whom a license has been issued under this section shall permit any other person to carry, display, or use the license for any purpose. Every person to whom a license has been issued under this section shall show the license upon demand of any officer authorized to enforce the fishing laws of the State. No person shall refuse any officer the examination or inspection of any bag or container of any kind used to carry fish or any vehicle or conveyance used to transport fish.

The department [may], upon written application, may issue a permit to a club or group of minors, not less than five in number, for unlicensed fishing where such activity will be supervised by responsible adults. All adults accompanying the excursions, however, shall themselves be licensed. The application shall state the area to be visited, the dates for the excursion, the name of the organization or group, and shall be signed by an adult advisor of the group. The permits shall expire and become void thirty days after issuance. The department may determine other terms and conditions of the permits.

(d) Where a bag limit is specified for the catching of fresh water fish, each licensee may take only one bag per day. This restriction to one bag applies to each minor participating in unlicensed group excursions for which permits have been issued under this section. The catch of a child below the age of nine years shall be deemed part of the catch of the licensed adult accompanying the child.

The department may revoke any license for any infraction of the terms and conditions of the license. Any person whose license has been revoked shall not be eligible to apply for another license until the expiration of one year from the date of revocation."

SECTION 3. Section 189-2, Hawaii Revised Statutes, is amended to read as follows:

"§189-2 Commercial marine license. (a) No person shall take marine life for commercial purposes whether the marine life is caught or taken within or outside of the State, without first obtaining a commercial marine license as provided in

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this section. Additionally, any person providing vessel charter services in the State for the taking of marine life in or outside of the State shall obtain a commercial marine license. The department of land and natural resources may adopt rules pursuant to chapter 91 necessary for the purposes of this chapter and to set fees for commercial marine licensing.

[b] (b) The department shall issue commercial marine licenses to persons engaging in the activities described in subsection (a), upon payment of the prescribed fees and receipt of properly completed applications upon forms prescribed by the department; provided that the department may issue a commercial marine license to a vessel with the fee determined by the number of persons on the vessel contributing to the taking of marine life for commercial purpose in or outside of the State. The applications for commercial marine licenses shall state the applicant's name, address, age, place of birth, length of residence in the State, height, weight, color of hair and eyes, citizenship, and any other information required by the department.

(c) No commercial marine licensee shall permit any other person or fishing vessel to carry, display, or use the license for any purpose. Every commercial marine licensee shall show the license upon demand of any officer authorized to enforce the fishing laws of the State. Failure or refusal to show the license shall be sufficient cause for the immediate cancellation of the license by the department.

[d] (b) All licenses issued under this section shall be in force one year from the date of issuance [to June 30 following the date of issuance]. Duplicate licenses may be issued to any person upon affidavit that the license was lost, and upon payment of a [fee of 50 cents.

The fee for a commercial marine license shall be:

- (1) \$25 for any person who has resided in the State for one year or longer, and
- (2) \$50 for all other persons,

except that anyone] duplicate license fee. The fees for commercial marine licenses and duplicate commercial marine licenses shall be established by the department by rules adopted in accordance with chapter 91. The department shall set the fees in an amount that, when combined with the fees provided for in sections 188-37 and 188-50, shall be reasonably necessary to supplement the funding for:

- (1) Enforcement of this section and chapter 188; and
- (2) The activities set forth in section 187A-11.

Anyone who qualifies as a "trainee" under rules prescribed by the department shall have the fee waived for a period of not more than one hundred eighty calendar days from the date on which the license is issued.

[e) (e) The department may revoke any license for any infraction of the terms and conditions of the license. In any proceeding for the revocation of a commercial marine license, the licensee shall be given notice and opportunity for hearing in conformity with chapter 91. Upon revoking the license, the department may specify a period of time during which the commercial licensee shall not be eligible to apply for another license; provided that the period shall not exceed one year from the date of revocation.]'

SECTION 4. The fees required by sections 188-37, 188-50, and 189-2, Hawaii Revised Statutes, and the provisions contained in subsections 189-2(b), (c), and (e), Hawaii Revised Statutes, shall remain in effect until the effective date of the rules required by this Act.

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

SECTION 6. This Act shall take effect upon its approval.

(Approved May 27, 1988.)

ACT 118

H.B. NO. 2310

A Bill for an Act Making an Appropriation for Improving Tsunami Preparedness in Hawaii.

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 \$90,000, or so much thereof as may be necessary for fiscal year 1988-1989, for improving tsunami preparedness in Hawaii, to include but not be limited to:

- (a) Review and updating of tsunami evacuation maps with primary focus on those areas of greatest risk and of most coastal development;
- (b) Development of uniform statewide signs and symbols designating evacuation routes; and
- (c) Development of a public education program concentrating on tsunami awareness, preparedness, saving of lives and reduction of personal property damage.

SECTION 2. The sum appropriated shall be expended by the department of defense for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 1988.

(Approved May 27, 1988.)

ACT 119

H.B. NO. 2311

A Bill for an Act Making an Appropriation for Improving the Statewide Tsunami Warning, Response, and Information System.

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 \$100,000, or so much thereof as may be necessary for fiscal year 1988-1989, to improve the statewide tsunami warning, response, and information system, to include, but not be limited to:

- (a) Addition of two remote data communication systems to existing tide gauges at Nawiliwili, Kauai, and at Kahului, Maui; and
- (b) Installation of telemetered tsunami gauges on the Puna Coast of Hawaii and the North Shore of Oahu.

SECTION 2. The sum appropriated shall be expended by the department of defense for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 1988.

(Approved May 27, 1988.)

ACT 120

H.B. NO. 2339

A Bill for an Act Relating to Solicitation.

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

SECTION 1. Section 445-184, Hawaii Revised Statutes, is amended to read as follows:

“§445-184 Solicitation by telephone. (a) Solicitation of orders by telephone to individuals at their homes [which] that offer the opportunity to receive prizes, gifts, premiums, stamps, coupons, tickets, or other redeemable devices as an inducement for sales or for appointments for sales to be made is prohibited; provided that a solicitor may telephone prospective customers for an appointment and solicit orders during the appointment.

(b) The use of any automatic announcing or automatic dialing-announcing devices on the public switched telephone network, for the purpose of initiating solicitation telephone calls, is prohibited. These devices are defined as those that can:

- (1) Work alone or in conjunction with other equipment to disseminate the same or similar prerecorded messages to the telephone numbers called; or
- (2) Store, generate, or automatically dial random or sequential telephone numbers in conjunction with the delivery of the same or similar prerecorded messages to the telephone numbers called.

(c) This section applies only to persons, manufacturers, producers and their employees, representatives or authorized agents, and solicitors engaging in the business of selling products, goods, wares, and merchandise in the State at retail for consumption or use by the purchaser and not for resale.”

SECTION 2. Section 445-186, Hawaii Revised Statutes, is amended to read as follows:

“§445-186 Penalty. Any person who [transacts or conducts] engages in business as a solicitor [before the person has complied with] in violation of sections 445-181 to 445-185, shall be fined not more than \$500 or imprisoned not more than three months.”

SECTION 3. Section 468-4, Hawaii Revised Statutes, is amended to read as follows:

“§468-4 Solicitation by telephone. Persons granted a permit under this chapter are prohibited from soliciting orders, options of sale, contracts, or subscriptions, by telephone to individuals at their homes and places of employment, when [such] the solicitations offer the opportunity to receive prizes, gifts, premiums, stamps, coupons, tickets, or other redeemable devices as an inducement for sales or for appointments for sales; provided that a solicitor may telephone prospective customers for an appointment and solicit orders during the appointment. Persons granted a permit under this chapter also are prohibited from using any automatic announcing or automatic dialing- announcing devices, as defined in section 445-184, for the purpose of initiating solicitation telephone calls.

This section applies only to persons, manufacturers, producers, and their employees, representatives, or authorized agents and solicitors engaging in the business of selling products, goods, wares, and merchandise in the State at retail for consumption or use by the purchaser and not for resale.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved May 27, 1988.)

ACT 121

H.B. NO. 2353

A Bill for an Act Relating to Industrial Loan Companies.

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

SECTION 1. Section 408-15, Hawaii Revised Statutes, is amended by amending subsection (j) to read as follows:

"(j) Other charges. In addition to the interest and any other charges permitted by this section, a licensee shall also have the right to charge, contract for, and receive in advance or otherwise from the borrower any of the following charges for any loan made under subsection (b) or (c):

- (1) The actual taxes and fees charged by a governmental agency for recording, filing, or entering of record, any bill of sale, assignment, deed, or other conveyance, any mortgage or other security agreement or instrument, any financing statement or other notice, and any partial or complete release, discharge, or satisfaction of any judgment, mortgage, lien, or other encumbrance, or of any of the conveyances, security agreements, or instruments or financing statements or other notices[.], or insurance premiums of the kind and to the extent described in paragraph (2) of subsection (e) of Section 226.4 of Regulation Z of the Board of Governors of the Federal Reserve System; provided that the insurance premium shall not exceed \$4.
- (2) Abstractors' fees, appraisal fees, survey fees, notary fees, and title report or title insurance fees, where actually paid to third parties, no portion of which fees inures to the benefit of the company.
- (3) Licensee appraisal fees; provided that the appraisals shall be made by a competent, qualified person connected with the licensee, designated and approved by the board of directors or by a competent, qualified, independent appraiser. The commissioner may require that an appraisal by an independent appraiser be obtained at the expense of the licensee whenever the commissioner deems it necessary.
- (4) Mortgage reserve funds to be held by the licensee for payment of taxes, insurance, lease rent, condominium assessments, and similar expenses.
- (5) Premiums actually paid for insuring real and personal property used as security on a contract and other personal property owned by the borrower, premiums for insurance on the life or disability or both of the borrower, premiums for private mortgage insurance, and premiums for involuntary unemployment insurance; provided the insurance is obtained from insurance companies authorized to do and doing business in the State under the laws thereof; and provided the borrower, if the property is adequately insured for the amount of the loan, shall not be required to substitute other insurance therefor upon the property or to take out additional insurance thereon.

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- (6) Attorney's fees and expenses, including costs and expenses of re-possession, foreclosure, or other legal remedies, if provided for in the contract, and costs of court, incurred in the collection of any contract in default.
- (7) A reasonable charge upon the transfer of any equity under a chattel mortgage or a conditional sale contract, or upon any partial or complete release, discharge, or satisfaction of any judgment, mortgage, lien, security interest, or other encumbrance, or upon any of the conveyances of any real or personal property which constitutes all or a portion of the security on a contract; provided that the charge shall not exceed \$25 for any consumer loan.
- (8) Any reasonable attorneys' fees incurred for the preparation of any contract, including any promissory note or any other obligation evidencing an indebtedness, any bill of sale, assignment, deed, or other conveyance, any mortgage or other security agreement or instrument, any financing statement or other notice, and any partial or complete release, discharge, or satisfaction of any conveyances, security agreements or instruments, financing statements, or other notices, or of any judgment, mortgage, lien, or other encumbrance on any real or personal property which constitutes all or a portion of security on a contract, or any other documents relating to a contract.
- (9) Actual charges for credit reports and other credit screening expenses incurred for loans of \$5,000 or more; provided that the charges are paid to third parties and no portion of the charges inures to the benefit of the licensee.
- (10) A prepayment charge as provided in the contract, on any amount voluntarily, and not pursuant to any acceleration provision, prepaid; provided that on any consumer loan, the prepayment charge shall be computed on the amount prepaid in any twelve-month period measured from the date of the contract or from any anniversary thereof in excess of twenty per cent of the original principal amount of any loan contracted for five years or more, and may be charged only on amounts prepaid within five years of the date of the contract and may be charged only on loans primarily secured by an interest in real property where the interest rate is computed in accordance with subsection (c) or (d); and provided further that on a consumer loan the prepayment charge on any amount shall not exceed a sum equal to six months of interest at the loan rate on the amount prepaid. The prepayment charge shall not apply to adjustable or variable rate loans or open-end loans.
- (11) Commitment fees as provided in the contract for the licensee's written commitment to a borrower to make, extend, or assume a loan or loans. The written commitment may make the fees nonrefundable.
- (12) Application fees charged to all applicants for a loan, whether or not the loan is approved.
- (13) Charges imposed by a licensee for payment of items that overdraw an open-end loan account.
- (14) Charges for participation in an open-end credit plan, whether assessed on an annual, periodic, or other basis.

This subsection shall not limit the authority that is available under subsection (d) to charge, contract for, and receive charges other than interest whether or not such other charges are finance charges.”

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

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

(Approved May 27, 1988.)

ACT 122

H.B. NO. 2404

A Bill for an Act Relating to Professional Corporations.

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

SECTION 1. Section 415A-11, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Except as otherwise provided by statute, if any corporation is liable under subsection (b), every shareholder of that corporation shall be liable to the same extent as though the shareholder were a partner in a partnership and the services giving rise to liability had been rendered on behalf of the partnership, unless the corporation has provided security for professional responsibility as provided in this subsection and the liability is satisfied to the extent contemplated by the insurance or bond which effectuates the security.

A professional corporation may provide security for professional responsibility by procuring insurance or a surety bond issued by an insurance company, or [a] coverage under chapter 435E, or any combination thereof, as the corporation may elect. The minimum amount of security and requirements as to the form and coverage provided by the insurance policy or surety bond may be established for each profession by the licensing authority for the profession, and the minimum amount may be set to vary with the number of shareholders, the type of practice, or other variables deemed appropriate by the licensing authority.”

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

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

(Approved May 27, 1988.)

ACT 123

H.B. NO. 2527

A Bill for an Act Relating to Motor Vehicles.

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

SECTION 1. Section 490:2-313.1, Hawaii Revised Statutes, is amended to read as follows:

“§490:2-313.1 New motor vehicle; express warranties, return. (a) If a new motor vehicle does not conform to all applicable express warranties, and the consumer reports the nonconformity in writing to the manufacturer, or at its option, its agent, distributor, or its authorized dealer during the term of such express warranties, then the manufacturer, its agent, distributor, or its authorized dealer shall make such repairs as are necessary to conform the vehicle to such express warranties, notwithstanding the fact that such repairs are made after the expiration of such term.

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(b) If the manufacturer, its agents, distributor, or authorized dealers are unable to conform the motor vehicle to any applicable express warranty by repairing or correcting any defect or condition which substantially impairs the use and market value of the motor vehicle to the consumer after a reasonable number of documented attempts, then the manufacturer shall replace the motor vehicle with a comparable motor vehicle or accept return of the vehicle from the consumer and refund to the consumer the following: the full purchase price including, but not limited to, charges for undercoating, dealer preparation, transportation and installed options, and all collateral charges, including, but not limited to, towing charges, replacement car rental costs, general excise tax, license and registration fees, title charges, and similar government charges, excluding interest, and less a reasonable allowance for the consumer's use of the motor vehicle. Refunds made pursuant to this subsection shall be deemed to be refunds of the sales price and treated as such for purposes of section 237-3. Refunds shall be made to the consumer, and lienholder, if any, as their interests may appear. A reasonable allowance for use shall be that amount directly attributable to use by the consumer prior to the consumer's first report of the nonconformity to the manufacturer, agent, distributor, or dealer and during any subsequent period when the motor vehicle is not out of service by reason of repair. It shall be an affirmative defense to any claim under this section that: (1) an alleged nonconformity does not substantially impair the use and market value of the motor vehicle, or (2) a nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of a motor vehicle by a consumer.

(c) It shall be presumed that a reasonable number of attempts have been undertaken to conform a motor vehicle to the applicable express warranties, if (1) the same nonconformity has been subject to repair three or more times by the manufacturer, its agents, distributor, or authorized dealers within the express warranty term but such nonconformity continues to exist, or (2) the vehicle is out of service by reason of repair for a cumulative total of thirty or more business days during such term. The term of an express warranty and such thirty-day period shall be extended by any period of time during which repair services are not available to the consumer because of a war, invasion, strike, fire, flood or other natural disaster. The presumption provided in this subsection shall not apply against a manufacturer if the manufacturer has not received a written report of the nonconformity from the consumer in accordance with subsection (a), its agent, distributor, or authorized dealer, or if the manufacturer has been denied a reasonable opportunity to repair the nonconformity alleged. During the term of the express warranty, any manufacturer, agent, distributor, or authorized dealer shall provide a written work order to a consumer who delivers a motor vehicle for repair. The consumer shall sign and receive a copy of the work order.

(d) Nothing in this section in any way shall limit the rights or remedies which are otherwise available to a consumer under any other law.

(e) If a manufacturer has established or participates in an informal dispute settlement procedure which substantially complies with title 16, Code of Federal Regulations, part 703, as from time to time amended, the provisions of subsection (b) concerning refunds or replacement shall not apply to any consumer who has not first resorted to that procedure; provided that the manufacturer, its agents, distributors, or authorized dealers provide the consumer at the time of purchase of the motor vehicle a written notice setting forth the terms of the informal dispute settlement procedure and a statement of the rights of the consumer under this section in plain language, the form of which has been previously reviewed and approved by the department of commerce and consumer affairs for substantial compliance with title 16, Code of Federal Regulations, part 703, and the requirements of this section.

Where the informal dispute procedure is invoked by the consumer over a

new motor vehicle under express warranties, a decision resolving the dispute shall be rendered within forty-five days after the procedure is invoked. If no decision is rendered within forty-five days as required by this subsection, the dispute shall be submitted to the regulated industries complaint office, department of commerce and consumer affairs for investigation and hearing.

Any decision rendered resolving the dispute shall provide appropriate remedies including, but not limited to the following:

- (1) Repair of the motor vehicle; or
- (2) Replacement of the motor vehicle with a comparable motor vehicle; or
- (3) Acceptance of the motor vehicle from the consumer and refund of the full purchase price, including all collateral charges as specified in subsection (b).

The decision shall specify a date for performance and completion of all awarded remedies.

(f) Any action brought under this section shall be commenced within one year following expiration of the express warranty term.

(g) No vehicle transferred to a dealer or manufacturer by a buyer or a lessee under subsection (b) may be sold or leased by any person unless:

- (1) The nature of the defect experienced by the original buyer or lessee is clearly and conspicuously disclosed;
- (2) The defect is corrected; and
- (3) The manufacturer warrants to the new buyer or lessee, in writing, for a period of one year, that if the defect reappears, it will be corrected at the dealer's expense."

SECTION 2. New statutory material is underscored.

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

(Approved May 27, 1988.)

ACT 124

H.B. NO. 3522

A Bill for an Act Relating to the Council on Revenues.

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

SECTION 1. Section 37-113.1, Hawaii Revised Statutes, is amended to read as follows:

“[§37-113.1] Council on revenues; estimate of total personal income. The council shall prepare an estimate of the total state personal income for the calendar year in progress and, when necessary, for the next succeeding calendar year for which such income has not been determined or published and shall report the estimate and any revision thereto to the director of finance, the governor, the chief justice, and the legislature each [July 15] July 20 and [October 15.] October 20.”

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

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

(Approved May 27, 1988.)

ACT 125

H.B. NO. 3484

A Bill for an Act Relating to Child Care.

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

SECTION 1. Section 346-151, Hawaii Revised Statutes, is amended by amending the definition of "family child care home" and "group child care home" to read as follows:

" "Family child care home" means a private home at which care is provided for three to [five] six children."

" "Group child care home" means a facility, which may be an extended or modified private home, at which care is provided for [six] seven to twelve children."

SECTION 2. Section 346-152, Hawaii Revised Statutes, is amended to read as follows:

"§346-152 Exclusions; exemptions. (a) Nothing in this part shall be construed to include:

- (1) A person caring for children related to the caregiver by blood [or], marriage[;], or adoption;
- (2) A person, group of persons, or facility caring for a child less than [three hours a day but not more than two times a week;] six hours a week;
- (3) A kindergarten, school, or program licensed by [another department;] the department of education;
- (4) A program which provides exclusively for a specialized training or skill [of eligible pupils in public and private schools through age seventeen,] development for children, including but not limited to programs providing such activities as athletic sports, foreign language, the Hawaiian language, dance, drama, music, or martial arts; [and]
- (5) A multiservice organization or community association duly incorporated under the laws of the State which operates for the purpose of promoting recreation, health, safety, or social group functions for eligible pupils in public and private schools through age seventeen[.]; and
- (6) Programs for children four years and older, which operate for no more than two consecutive calendar weeks in a three-month period.

(b) Staff members of programs taught solely in Hawaiian which promote fluency in the Hawaiian language shall be exempt from any regulations requiring academic training or certification."

SECTION 3. Sections 346-151 to 346-177, Hawaii Revised Statutes, are amended by replacing all references to the "department of social services and housing" or like terms with the "department of human services" or like terms.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved May 27, 1988.)

ACT 126

H.B. NO. 3593

A Bill for an Act Relating to the Department of Commerce and Consumer Affairs.

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

SECTION 1. Section 26-9, Hawaii Revised Statutes, is amended to read as follows:

"§26-9 Department of commerce and consumer affairs. (a) The department of commerce and consumer affairs shall be headed by a single executive to be known as the director of commerce and consumer affairs.

(b) The department shall protect the interests of consumers, depositors, and investors throughout the State. It shall set standards and enforce all laws[,] and rules[, and regulations] governing the licensing and operation of, and register and supervise the conduct of, trades, businesses, and professions, including banks, insurance companies, brokerage firms, and other financial institutions.

(c) The board of acupuncture, board of public accountancy, board of barbers, board of 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 registration for professional engineers, architects, and surveyors, board of hearing aid dealers and fitters, board of massage, board of medical examiners, motor vehicle industry licensing board, motor vehicle repair industry board, board of examiners in naturopathy, board of nursing, board of examiners of nursing home administrators, board of dispensing opticians, board of examiners in optometry, board of osteopathic examiners, pest control board, board of pharmacy, board of physical therapy, board of psychology, board of detectives and guards, real estate commission, board of veterinary examiners, and state board of speech pathology and audiology are placed within the department of commerce and consumer affairs for administrative purposes.

(d) Except as otherwise provided by this chapter, the functions, duties, and powers, subject to the administrative control of the director of commerce and consumer affairs, and the composition of each board and commission shall be as heretofore provided by law.

(e) Notwithstanding any provision to the contrary, the employment, appointment, promotion, transfer, demotion, discharge, and job descriptions of all officers and employees under the administrative control of this department shall be determined by the director of commerce and consumer affairs subject only to applicable personnel laws.

(f) The director of commerce and consumer affairs may appoint a hearings officer or officers not subject to chapters 76 and 77 to hear and decide any case or controversy regarding licenses and the application and enforcement of rules involving any of the boards or commissions within the department of commerce and consumer affairs. The hearings officer or officers shall have power to issue subpoenas, administer oaths, hear testimony, find facts, and make conclusions of law and a recommended decision; provided that the conclusions and decisions shall be subject to review and redetermination by the officer, board, or commission which would have heard the case in the first instance in the absence of a hearings officer. The review shall be conducted in accordance with chapter 91.

(g) The director of commerce and consumer affairs may appoint an information officer not subject to chapters 76 and 77 who shall ensure the prompt and efficient handling of consumer inquiries and the development of a strong consumer education program.

[(g)] (h) The director may appoint a complaints and enforcement officer not subject to chapters 76 and 77 who shall facilitate the receipt, arbitration, investi-

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gation, prosecution, and hearing of complaints regarding any person who furnishes commodities or services for which a license is required from the department or any board or commission thereunder. In representing the State in bringing any action to enjoin unlicensed activities, the department of commerce and consumer affairs' attorneys shall be empowered to exercise all authority granted to the attorney general and to the director of the office of consumer protection under sections 487-12, 487-14, 480-3.1, 480-15, 480-15.1, 480-20(c), and 480-22, as [such] these sections now exist and as they [may be] subsequently may be amended. The attorneys [shall] also shall be empowered to exercise all authority granted to the attorney general and to the responsible attorneys of the various counties under section 92-51 in all cases involving documents and records within the custody or control of the regulated industries complaints office.

[(h)] (i) The functions and authority [heretofore] previously exercised by the treasurer (except funds custody, cash management, debt management, and administering of veterans loans transferred to the department of budget and finance) as [heretofore] constituted are transferred to the department of commerce and consumer affairs established by this chapter. The director of commerce and consumer affairs [shall] also shall be the commissioner of securities.

[(i)] (j) In the course of an investigation of matters affecting the interest of consumers, depositors, or investors or of any other matter within the jurisdiction of the department, the director shall have the power to subpoena witnesses, examine them under oath, and require the production of books, papers, documents, or objects which the director deems relevant or material to the inquiry. Upon application by the director, obedience to the subpoena may be enforced by the circuit court in the county where the person subpoenaed resides or is found in the same manner as a subpoena issued by the clerk of a circuit court.

The director shall appoint and commission one or more investigators to serve subpoenas as the exigencies of the public service may require. Subpoenas served by persons appointed and commissioned by the director shall have the same force and effect as subpoenas served by police officers or deputy sheriffs. Nothing in this subsection shall be construed to entitle persons commissioned and appointed by the director to retirement benefits applicable to police officers under chapter 88.

[(j)] (k) The director may adopt, amend, or repeal rules pursuant to chapter 91 to effectuate the purposes of all laws within the jurisdiction of the department of commerce and consumer affairs. The director's authority to adopt rules shall not modify, impair, or otherwise affect the power of boards and commissions placed with the department of commerce and consumer affairs for administrative purposes from adopting, amending, or repealing rules, except as provided for in subsection [(k).] (l).² The director may establish, amend, or repeal registration, renewal, and late renewal fees by rules pursuant to chapter 91 for any regulatory program placed with the department.

[(k)] (l) Any law to the contrary notwithstanding, the fees assessed or charged by any board or commission placed within the department of commerce and consumer affairs for administrative purposes or by the department for services provided to the public may be increased or decreased by the director of commerce and consumer affairs by rules adopted pursuant to chapter 91 to maintain a reasonable relation between the revenue derived from the fee and the cost or value of services rendered; provided that with regard to the fees assessed or charged by any board or commission, the director may establish the fees as separate application, examination, and license fees.

[(l)] (m) Notwithstanding section 92-17 or any other law to the contrary, all boards and commissions placed within the department of commerce and consumer affairs for administrative purposes shall delegate their authority to receive, arbitrate,

investigate, and prosecute complaints to the department. No board or commission shall delegate its authority to take disciplinary action against a licensee.

[(m)] (n) Every [licensed] person licensed under any chapter subject to section 26H-4 and every [licensed] person licensed subject to chapter 485 shall pay upon issuance of a license, permit, certificate, or registration a fee of \$10 and a subsequent annual fee of \$10, which may be collected biennially or pursuant to rules adopted under chapter 91 and which shall be deposited into the special fund established under this subsection. Every filing pursuant to chapter 514E or section 485-6(15) shall be assessed, upon initial filing and at each renewal period, where [such] a renewal is required, a fee which shall be prescribed by rules adopted under chapter 91 and which shall be deposited into the special fund established under this subsection. Any unpaid fee shall accrue and shall be paid by the licensed person, upon application for renewal of a license, and by the person responsible for the renewal of any filing, upon the application for renewal of the filing. If the accrued fees are not paid, the director may deny renewal of the license or filing. The director may increase or decrease the fees when necessary pursuant to rules adopted under chapter 91.

There is created in the state treasury a special fund to be expended by the director's designated representative for compliance resolution as provided by this subsection. Notwithstanding any law to the contrary, the moneys in the fund shall consist of annual fees collected under this subsection and section 514A-95 and penalties or fines assessed as a result of action brought by the personnel hired under this subsection. The director may use the moneys in the fund to employ, without regard to chapters 76 and 77, hearings officers, investigators, attorneys, accountants, and other necessary personnel. The moneys in the fund may be used to train such personnel as the director finds necessary and for any other activity related to compliance resolution.

As used in this subsection, unless otherwise required by the context, "compliance resolution" means a determination of whether:

- (1) [any] Any licensee or applicant under any chapter subject to section 26H-4, has complied with that chapter[,];
- (2) [any licensee] Any person subject to chapter 485 has complied with that chapter[,]; or
- (3) [any] Any person submitting any filing required by chapter 514E or section 485-6(15) has complied with chapter 514E or section 485-6(15).

The director shall prepare and submit an annual report to the governor and the legislature on the use of the compliance resolution fund. This subsection shall be repealed effective July 1, [1991.] 2001.

[(n)] (o) Any law to the contrary notwithstanding, the department of commerce and consumer affairs, or any board or commission placed within it for administrative purposes, may contract with professional testing services to prepare, administer, and grade examinations and tests for license applicants. For these purposes, the department may require applicants to pay the examination fee directly to the testing agency.

[(o)] (p) Any law to the contrary notwithstanding, when any type of bond or insurance required to be maintained by any licensee under a regulatory program of the department of commerce and consumer affairs, or of any board or commission assigned to the department of commerce and consumer affairs, cannot reasonably be secured, the department, board, or commission may provide by rule [provide] for alternative forms of security to the consumer so long as that alternate security is no less than that provided by the type of bond or insurance initially required."

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SECTION 2. Section 514A-95, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) All managing agents doing business in this State on July 1, 1984, shall register with the real estate commission before January 1, 1985. Any person who becomes a managing agent after July 1, 1984, shall register with the commission by January 1, 1985, or not later than one week after becoming a managing agent, whichever is later. Every managing agent shall pay an initial registration fee of \$25 and a reregistration fee of \$15. Reregistration shall be on a biennial basis. Registration fees shall be placed in the special fund established under section [26-9(m)] 26-9(n) for compliance resolution."

SECTION 3. For the period ending November 30 of each year, the director shall prepare and submit a report to the governor, the president of the senate, and the speaker of the house of representatives on the use of the compliance resolution. The report shall be submitted by December 20 immediately following the period covered by the report. The first annual report under this section shall be due on December 20, 1988.

Each report on the use of the compliance resolution fund shall include:

- (1) A general overview of the compliance resolution program, including:
 - (A) A statement of its objectives;
 - (B) A description of its major activities; and
 - (C) A discussion of important external developments affecting the compliance resolution program or fund.
- (2) A budgetary overview of the compliance resolution program, including:
 - (A) A summary of the balance of the compliance resolution fund, actual for the last completed period and estimated for the period in progress; and
 - (B) As defined by section 37-62, the full cost implications of the compliance resolution fund, by cost categories and cost elements, actually experienced in the last completed period and estimated for the period in progress. The means of financing shall be identified specifically.
The personal services cost element shall be shown separately; the cost elements of other current expenses, equipment, and motor vehicles may be combined. The number of positions included in the program shall be identified appropriately by means of financing.
- (3) Appendices as needed to include appropriate issue papers, special analytic studies, other reports, and crucial source data.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved May 27, 1988.)

Notes

1. Prior to amendment, "the" appeared here.
2. Period should be underscored.

ACT 127

H.B. NO. 3611

A Bill for an Act Relating to Banking.

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

SECTION 1. Section 403-94, Hawaii Revised Statutes, is amended to read as follows:

“§403-94 Loan to officers, directors, or employees; restrictions; liability of officers and directors. Except as herein provided, no bank shall make any loan or loans to any of its officers, directors, agents, or employees, or to any company, firm, copartnership, or association, excluding however corporations, in which any of the officers or directors of the bank may be interested, either directly or indirectly, except upon the written application of such person, firm, copartnership, or association, stating the line of credit applied for, terms and security, if any, offered therefor to the board of directors or to the advisory, discount, or executive committee of the board, and then only with the written approval of a majority of the board or a majority of the advisory, discount, or executive committee of the bank before the loan is made, and the approval of the loan as allowed by the board or the advisory, discount, or executive committee of the bank shall be made a part of the minutes of the next directors’ meeting of the bank. Loans may be made to any officer, director, agent, or employee of any bank, without such application and approval, (1) in any amounts where the loans are secured by bonds of the State, bonds or notes of the United States issued since April 24, 1917, or certificates of indebtedness of the United States, where the amount of the collateral is equal to at least one hundred five per cent of the amount of any such loan; and (2) in amounts, excluding loans so secured, not in excess of \$20,000 in aggregate principal owing by any such individual at any one time. Any officer, director, agent, or employee of any bank who knowingly permits the funds of the bank to be loaned in a dishonest manner or contrary to this chapter shall be held responsible in the officer’s, director’s, agent’s, or employee’s individual capacity for all damages which the bank, its shareholders, depositors, creditors, or any persons shall have sustained in consequence thereof.”

SECTION 2. New statutory material is underscored.

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

(Approved May 27, 1988.)

ACT 128

S.B. NO. 21

A Bill for an Act Relating to Regulation of Motor Vehicles Repairs.

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 other powers and duties established by this chapter, the board shall, in accordance with this chapter and chapter 91;

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- (1) Establish such qualifications for the registration 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 shall be registered 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 such 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 [state director of vocational education] University of Hawaii in developing and administering the certification program provided for in this chapter.
- (4) Make, amend, and repeal such rules not inconsistent with this chapter, as the board deems appropriate for effectuating the purpose of this chapter and to insure the welfare of the public.
- (5) Enforce this chapter and rules adopted pursuant thereto.”

SECTION 2. Section 437B-23, Hawaii Revised Statutes, is amended by amending subsections (c), (d), and (e) to read as follows:

“(c) The certification test shall [include both a written test and a performance test; provided that the written test shall be given orally upon the request of the person being tested.] be approved by the board and if written, shall be given orally at the request of the person 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) [The certification program shall be implemented prior to January 1, 1977.] There shall be no limit on the number of times a person may apply for certification; provided that any person failing the examination must wait thirty days before retaking the test.

(e) All persons who take and pass the certification test shall be awarded a certificate which shall be posted in a prominent place at their place of business or employment and a patch which may be worn on clothing apparel. The [office of the director of vocational education] University of Hawaii shall design and procure the certificate and patch.”

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

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

(Approved May 27, 1988.)

ACT 129

S.B. NO. 2029

A Bill for an Act Relating to Surety Bonds.

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

SECTION 1. Section 26-40, Hawaii Revised Statutes, is repealed.

SECTION 2. Statutory material to be repealed is bracketed.¹

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

(Approved 27, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

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S.B. NO. 2461

A Bill for an Act Relating to Horizontal Property Regimes.

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

SECTION 1. Section 514A-83.2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) A proxy shall only be valid for the meeting to which the proxy pertains and its adjournments, may designate any person as proxy, and may be limited as the apartment owner desires and indicates[.]; provided that no proxy shall be irrevocable unless coupled with a financial interest in the unit.”

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

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

(Approved May 27, 1988.)

ACT 131

S.B. NO. 2796

A Bill for an Act Relating to Pilotage.

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

SECTION 1. Section 462A-3, Hawaii Revised Statutes, is amended to read as follows:

“§462A-3 Powers and duties of the director. In addition to any other duties and powers granted by this chapter the director shall:

- (1) Grant licenses to port pilots and deputy port pilots pursuant to this chapter;
- (2) Make, amend, or repeal rules in accordance with chapter 91 as may be necessary to carry out the purposes of this chapter which are to provide for maximum efficiency in navigating vessels entering or leaving the waters of this State; maintain a pilotage system devoted to the preservation, and protection of lives, property and vessels entering or leaving waters of the State; and ensure an adequate supply of qualified pilots in aid of commerce and navigation;
- (3) Develop appropriate standards for licensure including examinations and investigations to determine whether persons applying for full [pilot,] port pilot, or deputy port pilot licenses are qualified;
- (4) Enforce this chapter and rules adopted pursuant thereto;
- (5) Suspend, revoke or deny the issuance of any license for any cause prescribed by this chapter, or for any violation of the rules;

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- (6) Investigate any person for violations of any provisions of this chapter;
- (7) Adopt methods to improve disciplinary and enforcement programs against violations of this chapter;
- (8) Do all things reasonable, necessary, and expedient to insure proper and safe pilotage and to facilitate the efficient administration of this chapter.”

SECTION 2. Section 462A-7, Hawaii Revised Statutes, is amended to read as follows:

“§462A-7 [Pilot examination and license fees. An applicant for examination for a pilot's license shall pay a fee of \$25. Upon the issuance of an original port pilot license or a renewed port pilot license, the licensee shall pay a fee of \$200. Upon the issuance of an original deputy port pilot license or a renewed deputy port pilot license, the licensee shall pay a fee of \$50.] Fees. The department may provide for separate fees for application, examination, license renewal, restoration of license, and for limited and temporary licenses. All fees shall be as provided in rules adopted by the director pursuant to chapter 91 and shall be deposited with the director of finance to the credit of the general fund.”

SECTION 3. Section 462A-19, Hawaii Revised Statutes, is amended to read as follows:

“§462A-19 Exempt vessels. This chapter does not apply to:

- (1) Any vessel required by the laws of the United States of America to be under the direction and control of a federally licensed pilot;
- (2) Public vessels of the United States of America; or
- [3] Motorboats as defined in section 1 of the Federal Motorboat Act of 1940; or
- (4) (3) Fishing vessels that have been issued a fishery license or appropriately endorsed registry under the laws of the United States of America.

This section provides minimum pilotage requirements, and is not intended to negate the department of transportation's responsibility for the safety of all ports and shore waters in the State, nor does it limit the department's right to require additional pilotage should that department determine it is necessary to ensure safety in the ports or shore waters of the State.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved May 27, 1988.)

ACT 132

S.B. NO. 2803

A Bill for an Act Relating to the Director's Subpoena Power.

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

SECTION 1. Section 671-13, Hawaii Revised Statutes, is amended to read as follows:

“§671-13 Medical claim conciliation panel hearing; fact-finding; evi-

dence; voluntary settlement. Every claim of a medical tort shall be heard by the medical claim conciliation panel within thirty days after the last date for filing a response. No persons other than the panel, witnesses, and consultants called by the panel, and the persons listed in section 671-14 shall be present except with the permission of the chairperson. The panel may, in its discretion, conduct an inquiry of a party, witness, or consultant without the presence of any or all parties.

The hearing shall be informal. Chapters 91 and 92 shall not apply. The panel may require a stenographic record of all or part of its proceedings for the use of the panel, but such record shall not be made available to the parties. The panel may receive any oral or documentary evidence. Questioning of parties, witnesses, and consultants may be conducted by the panel, and the panel may, in its discretion, permit any party, or any counsel for a party to question other parties, witnesses, or consultants. The panel may designate who, among the parties, shall have the burden of going forward with the evidence with respect to such issues as it may consider, and unless otherwise designated by the panel, when medical and hospital records have been provided to the claimant for the claimant's proper review, such burden shall initially rest with the claimant at the commencement of the hearing.

The panel shall have the power to require by subpoena the appearance and testimony of witnesses and the production of documentary evidence. When such subpoena power is utilized, notice shall be given to all parties. The testimony of witnesses may be taken either orally before the panel or by deposition. In cases of refusal to obey a subpoena issued by the panel, the panel may invoke the aid of any circuit court in the State, which may issue an order requiring compliance with the subpoena. Failure to obey such order may be punished by the court as a contempt thereof. Any member of the panel, the director of the department, or any person designated by the director of the department may sign subpoenas[.]. Any member of the panel may administer oaths and affirmations, examine witnesses, and receive evidence. Notwithstanding such powers, the panel shall attempt to secure the voluntary appearance, testimony, and cooperation of parties, witnesses, and consultants without coercion.

At the hearing of the panel and in arriving at its opinion the panel shall consider, but not be limited to, statements or testimony of witnesses, hospital and medical records, nurses' notes, x-rays, and other records kept in the usual course of the practice of the health care provider without the necessity for other identification or authentication, statement¹ of fact, or opinion on a subject contained in a published treatise, periodical, book, or pamphlet, or statements of experts without the necessity of the experts appearing at the hearing. The panel may upon the application of any party or upon its own decision appoint as a consultant, an impartial and qualified physician, surgeon, physician and surgeon, or other professional person or expert to testify before the panel or to conduct any necessary professional or expert examination of the claimant or relevant evidentiary matter and to report to or testify as a witness thereto. Such a consultant shall not be compensated or reimbursed except for travel and living expenses to be paid as provided in section 671-11. Discovery by the parties shall not be allowed.

During the hearing and at any time prior to the rendition of an advisory decision pursuant to section 671-15, the panel may encourage the parties to settle or otherwise dispose of the case voluntarily."

SECTION 2. Section 672-5, Hawaii Revised Statutes, is amended to read as follows:

"§672-5 Design professional conciliation panel hearing; fact-finding; evidence; voluntary settlement. Every claim of a tort shall be heard by the design professional conciliation panel within thirty days after the date for filing a response.

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No persons other than the panel, witnesses, and consultants called by the panel, and the persons listed in section 672-6 shall be present except with the permission of the chairperson. The panel may, in its discretion, conduct an inquiry of a party, witness, or consultant without the presence of any or all parties.

The hearing shall be informal. The panel may require a stenographic record of all or part of its proceedings for the use of the panel, but such record shall not be made available to the parties. The panel may receive any oral or documentary evidence. Questioning of parties, witnesses, and consultants may be conducted by the panel, and the panel may, in its discretion, permit any party, or any counsel for a party to question other parties, witnesses,² or consultants. The panel may designate who, among the parties, shall have the burden of going forward with the evidence with respect to such issues as it may consider, and unless otherwise designated by the panel, when¹ design professional's records have been provided¹ for the claimant's proper review, such burden shall initially rest with the claimant at the commencement of the hearing.

The panel shall have the power to require by subpoena the appearance and testimony of witnesses and the production of documentary evidence. When such subpoena power is utilized, notice shall be given to all parties. The testimony of witnesses may be taken either orally before the panel or by deposition. In cases of refusal to obey a subpoena issued by the panel, the panel may invoke the aid of any circuit court in the State, which may issue an order requiring compliance with the subpoena. Failure to obey such order may be punished by the court as a contempt thereof. Any member of the panel, the director of the department, or any person designated by the director of the department may sign subpoenas[.]. Any member of the panel may administer oaths and affirmations, examine witnesses, and receive evidence. Notwithstanding such powers, the panel shall attempt to secure the voluntary appearance, testimony, and cooperation of parties, witnesses, and consultants without coercion.

At the hearing of the panel and in arriving at its opinion the panel shall consider, but not be limited to, statements or testimony of witnesses, construction documents, inspection reports, calculations, and other records kept in the usual course of the practice of the design professional without the necessity for other identification or authentication, statements of fact,² or opinion on a subject contained in a published treatise, periodical, book, or pamphlet, or statements of experts without the necessity of the experts appearing at the hearing. The panel may upon the application of any party or upon its own decision appoint as a consultant, an impartial and qualified architect, engineer, surveyor, or landscape architect or other professional person or expert to testify before the panel or to conduct any necessary professional or expert examination of the claimant or relevant evidentiary matter and to report to or testify as a witness thereto. Such a consultant shall not be compensated or reimbursed except for travel and living expenses to be paid¹ which may be incurred as a result of such person's appearance before the panel. Such expenses shall be paid by the department of commerce and consumer affairs to be paid as provided in section 672-3. Discovery by the parties shall not be allowed.

During the hearing and at any time prior to the rendition of an advisory decision pursuant to section 672-7, the panel may encourage the parties to settle or otherwise dispose of the case voluntarily."

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

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

(Approved May 27, 1988.)

Notes

1. So in original.
2. Comma should be underscored.

ACT 133

S.B. NO. 2870

A Bill for an Act Relating to Medicine and Surgery.

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

SECTION 1. Chapter 453, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§453- Foreign medical graduates; alternative qualifications. Notwithstanding section 453-4(b)(2)(B), a graduate of a foreign medical school who has passed the federation licensing examination (FLEX) with scores deemed satisfactory to the board, passed the qualifying examination of the Educational Commission for Foreign Medical Graduates prior to 1984, and has at least three years of medical training or experience in a hospital approved by the Council on Medical Education and Hospitals of the American Medical Association for internship or residency may be licensed by the board of medical examiners under section 453-4(c)."

SECTION 2. New statutory material is underscored.¹

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

(Approved May 27, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 134

S.B. NO. 3011

A Bill for an Act Relating to Horizontal Property Regimes.

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

SECTION 1. Section 514A-14.5, Hawaii Revised Statutes, is amended to read as follows:

"§514A-14.5 Ownership of parking stalls. (a) [Apartment owners] Owners of apartments intended for use for dwelling purposes shall have the right to own or have designated parking stalls to be appurtenant to their respective apartments. Where a developer or association of apartment owners owns parking stalls and rents parking stalls to the owners of the apartments, a majority of these apartment owners may request the appointment of an appraiser to establish a price for each parking stall which may then be negotiated for purchase by the respective owners.

(b) The sales contract for any [newly constructed] apartment, intended for use for dwelling purposes and newly constructed after April 29, 1986, shall include ownership of a parking stall or designate a stall to be appurtenant to the apartment as a limited common element.

(c) This section does not apply:

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- (1) To apartments developed under chapters 356, 359, and 359G; and
- (2) To apartments in a mixed-use project developed under chapter 206E that has a shared parking program approved by the Hawaii community development authority; provided that such a program shall require the availability of the use of not less than one parking space per apartment.”

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

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

(Approved May 27, 1988.)

ACT 135

S.B. NO. 3200

A Bill for an Act Relating to the Hawaii State Defense Force.

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

SECTION 1. Chapter 122A, and sections 121-1, 121-3, 121-7, 386-161, 662-1, and 662-15(5), Hawaii Revised Statutes, are amended by substituting the term “state defense force” wherever the term “state guard” appears.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 27, 1988.)

ACT 136

S.B. NO. 3224

A Bill for an Act Relating to Public Lands.

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

SECTION 1. Section 171-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

“‘Agriculture or agricultural’ means the planting, cultivating, harvesting, and processing of crops, including those planted, cultivated, harvested, and processed for food, ornamental, grazing, or forestry purposes, and including aquatic life farmed or ranched as aquaculture as defined by section 187A-1.”

SECTION 2. New statutory material is underscored.

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

(Approved May 27, 1988.)

ACT 137

S.B. NO. 3135

A Bill for an Act Relating to an Intensive Parole Supervision Pilot Program.

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

SECTION 1. The legislature finds that the parole supervision program currently provides for only two to four personal contacts between the parole officer and the parolee each month and that there are many inmates who would require more intensive supervision in order to reintegrate successfully into the community. The legislature finds that a more intensive parole supervision would also be beneficial to those parolees who experience problems while on regular parole and are subject to reincarceration. The purpose of this Act is to establish a pilot program which will provide for more intensive parole supervision.

SECTION 2. There is established a two-year intensive parole supervision pilot program to be administered by the Hawaii paroling authority from July 1, 1988 through June 30, 1989. The goals of the program are to reduce risk of recidivism by certain types of inmates and to help relieve overcrowding in the State's correctional facilities without compromising community safety through the implementation of a carefully designed and administered intensive parole supervision program. The program shall be aimed at those inmates who have served their punishment time and have earned the opportunity for parole but, because of particular problems or needs, require intensive supervision and assistance for a period of time immediately following parole. The program shall provide intensive parole supervision for such inmates on a seven-day-a-week and twenty-four-hour-a-day basis.

SECTION 2.¹ There is appropriated out of the general revenues of the State of Hawaii the sum of \$150,541, or so much thereof as may be necessary for fiscal year 1988-1989, for the initiation of a two-year intensive parole supervision program by the Hawaii paroling authority.

SECTION 3.¹ The sum appropriated shall be expended by the department of corrections to carry out the purposes of this Act.

SECTION 4.¹ This Act shall take effect upon its approval.

(Approved May 27, 1988.)

Note

1. So in original.

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S.B. NO. 2031

A Bill for an Act Relating to Flags.

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

SECTION 1. The legislature finds that current laws relating to sale and usage of state flags by the comptroller are outdated. The comptroller does not provide flags for schools and the courts, and has no record of ever having sold flags to the general public. Deletion of the sections specified in this Act, which effectively serve no purpose, will conform the law to the reality of the current practices of the department.

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SECTION 2. Section 5-1, Hawaii Revised Statutes, is repealed.

SECTION 3. Section 5-2, Hawaii Revised Statutes is repealed.

SECTION 4. Section 5-3, Hawaii Revised Statutes, is repealed.

SECTION 5. Statutory material to be repealed is bracketed.¹

SECTION 6. This Act shall take effect upon its approval.

(Approved June 1, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 139

S.B. NO. 2050

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 repeal an outdated law which establishes the rodent control fund. The fund, which is administered by the department of health, is a revolving fund which has not been used for many years, nor does the department have any reason to believe that it will be in the future.

SECTION 2. Section 321-8, Hawaii Revised Statutes, is repealed.

SECTION 3. Statutory material to be repealed is bracketed.¹

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

(Approved June 1, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 140

S.B. NO. 2052

A Bill for an Act Relating to Health.

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

SECTION 1. Section 325-11, Hawaii Revised Statutes, is repealed.

SECTION 2. Statutory material to be repealed is bracketed.¹

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

(Approved June 1, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 141

S.B. NO. 2186

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

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

SECTION 1. Section 11-72, Hawaii Revised Statutes, is amended to read as follows:

"§11-72 Precinct officials; submission of names and assignment; vacancies. All qualified political parties shall submit names for precinct officials to the chief election officer not later than 4:30 p.m. on the ninetieth day prior to the close of filing for any primary, special primary, or special election. All precinct officials shall be able to read and write the English language. If any party shall fail to submit the required names by the above deadline, the chief election officer may fill such positions with available qualified persons.

In assigning the precinct officials the following criteria shall be followed:

- (1) The precinct officials shall be registered voters of the precinct in which they serve; but if qualified persons in the precinct or representative district are not readily available to serve, they may be chosen from without the precinct or representative district, or if qualified persons either in or without the precinct or representative district are not available to serve, the chief election officer may designate precinct officials who are not registered voters if the persons so designated are otherwise qualified and shall have attained the age of sixteen years on or before December 31, of the year preceding the appointment.
- (2) The chief election officer may designate more precinct officials than are needed in order to create a pool of qualified precinct officials who may be assigned to fill vacancies or to perform such duties as needed in any precinct.
- (3) No parent, spouse, child, or sibling of a candidate shall be eligible to serve as a precinct official in any precinct in which votes may be cast for the candidate; nor shall any candidate for any elective office be eligible to serve as a precinct official in the same election in which he is a candidate. No candidate who failed to be nominated in the primary or special primary election shall be eligible to serve as a precinct official in the general election next following.
- (4) The chairman of the precinct officials shall be of the same party as the governor and shall be the first named precinct official on the list prepared by the chief election officer. The remainder of the precinct officials shall be apportioned as follows:
 - (A) The total votes cast, except those cast for nonpartisan candidates, for all of the following offices which were on the ballot in the next preceding general election shall be divided into the total votes cast for all the candidates of each party for such offices: president and vice-president, United States senator, United States representative, governor and lieutenant governor, state senator, and state representative.

- (B) In [[the[]]] event that a party's proportion of votes cast exceeds fifty per cent, its share shall be one-half of the precinct officials. The remaining one-half shall be divided among the remaining parties in proportion to their respective total of votes cast for the offices set forth in subparagraph (A).
- (C) In the case of the above division resulting in parties having fractional positions a whole position shall go to the party with the larger number of votes cast.
- (D) Newly qualified parties may be assigned up to ten per cent of the total positions available at the discretion of the chief election officer.

In case of inability, failure, or refusal of any person so assigned to serve as a precinct official the chief election officer shall, so far as reasonably practicable, appoint a person to fill the vacancy from the same party as that of the person to be replaced. In case of doubt as to the party affiliation of a precinct official, the chief election officer shall use first, the party membership list; and second, the person's word."

SECTION 2. Section 11-213, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Primary and special primary. Each candidate whether or not successful in a primary or special [[primary[]]] election, authorized person in the case of a party, or campaign treasurer in the case of a committee, shall file a final primary report certified pursuant to section 11-195 with the commission on forms provided by the commission no later than 4:30 p.m. on the twentieth calendar day after a primary or special primary election. The report shall include:

- (1) A statement of the total contributions and campaign receipts received;
- (2) The amount and date of deposit of each contribution and the name and address of each donor who contributes an aggregate of more than \$100;
- (3) A statement of all expenditures made, incurred, or authorized by or for a candidate including the name and address of each payee and the amount, date, and purpose of each expenditure; and
- (4) The cash balance and a statement of surplus or deficit."

SECTION 3. Section 11-216, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

"[[f[]]] In the event a determination is made that probable cause of a wilful violation exists, the commission shall promptly advise the lieutenant governor of its findings and also the applicable clerk of the state legislature in the case of a state office, or the clerk of the respective county legislative body in the case of a county office. In the event a determination is made that probable cause of an unintentional violation exists, the commission shall issue an order that may require the violator to:

- (1) Temporarily cease and desist violation of this subpart; or
- (2) File any report, statement, or other information as required by this subpart."

SECTION 4. 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 barbers, board of cosmetology, boxing commission, board of chiropractic exam-

iners, contractors license board, board of dental examiners, board of electricians and plumbers, elevator mechanics licensing board, board of registration [for] of professional engineers, architects, [and] surveyors, and landscape architects, board of hearing aid dealers and fitters, board of massage, board of medical examiners, motor vehicle industry licensing board, motor vehicle repair industry board, board of examiners in naturopathy, board of nursing, board of examiners of nursing home administrators, board of dispensing opticians, board of examiners in optometry, board of osteopathic examiners, pest control board, board of pharmacy, board of physical therapy, board of psychology, board of detectives and guards, real estate commission, board of veterinary examiners, and state board of speech pathology and audiology are placed within the department of commerce and consumer affairs for administrative purposes.”

SECTION 5. Section 46-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) This section and any ordinances or rules and regulations adopted in accordance with it, shall apply to those 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 as shall be deemed best suited 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 so as 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 lot which may be occupied, size of yards, courts, and other open spaces.
- (11) Minimum and maximum lot sizes.
- (12) Other such regulations as may be deemed by the boards or city council as necessary and proper to permit and encourage orderly development of land resources within their jurisdictions.

The council of any county shall prescribe such rules and regulations and

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administrative procedures and provide such personnel as it may deem necessary for the enforcement of this section and any ordinance enacted in accordance therewith. 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. Such a proceeding shall not be a prerequisite for any injunctive relief ordered by the circuit court.

Nothing in this section shall invalidate any zoning ordinances 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 accord with a long range, comprehensive, general plan, and to insure the greatest benefit for the State as a whole. This section shall not be construed to limit or []~~repeal~~ any powers now possessed by any county to achieve the 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 under this section shall prohibit the continuance of the lawful use of any building or premises for any trade, industry, 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."

SECTION 6. Section 46-4, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Neither this section nor any other law, county ordinance, or rule shall prohibit group living in facilities with eight or fewer residents and which are licensed by the State as provided for under section 321-15.6 or in intermediate care facilities for the mental retardation (ICF/MR-C) for persons, including the mentally ill, the elderly, the handicapped, the developmentally disabled, or the totally disabled persons, who are not related to the home operator or facility staff; provided that such group living facilities meet all applicable county requirements, not inconsistent with the intent of this subsection and including building height, setback, maximum lot coverage, parking, and floor area requirements. For purposes of this section, "mentally ill person" means a mentally ill person as defined under section 334-1; "elderly person" means an elderly person as defined under section [359-52;] 201E-230; "handicapped person" means an individual with a physical handicap as defined under section 515-2; "developmentally disabled person" means a person suffering from developmental disabilities as defined under section 333E-2; "totally disabled person" means a person totally disabled as defined under section 235-1; and "intermediate care facility/mental retardation-community (ICF/MR-C)" is defined as an identifiable unit providing residence and care for eight or fewer mentally retarded individuals. Its primary purpose is the provision of health, social and rehabilitation services to the mentally retarded through an individually designed active treatment

program for each resident. No person who is predominately confined to bed shall be admitted as a resident of such a facility.”

SECTION 7. Section 46-15.4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The respective counties may conduct inspections to enforce sections [445-91] 445-92 to 445-96. Each county may conduct its inspections without a warrant if the conditions enumerated in subsection (c) exist. A county shall conduct its inspection with a warrant in accordance with this section if the circumstances enumerated in subsection (c) do not exist or if specific buildings or premises to be inspected can be identified through citizen complaint or by information obtained from state agencies under section 46-15.5. The issuance and execution of an administrative inspection warrant shall be as follows:

- (1) A judge of the circuit court, or any district judge within the judge's jurisdiction, may issue warrants for the purpose of conducting administrative inspections. The warrants shall be issued upon proper oath or affirmation showing probable cause that:
 - (A) The conditions of a license under section 445-95 have been violated; or
 - (B) A person is operating a lodging or tenement house, group home, group residence, group living arrangement, hotel, boarding-house, or restaurant without a license;
- (2) A warrant shall issue only upon an affidavit of an individual having knowledge of the facts alleged, sworn to before the judge and establishing the grounds for issuing the warrant. If the judge is satisfied that there is probable cause to believe the grounds for issuing a warrant exist, the judge shall issue a warrant identifying the area, premises, building, or records to be inspected, the purpose of the inspection, and, if appropriate, the type of property to be inspected, if any. The warrant shall:
 - (A) State the grounds for its issuance and the name of each person whose affidavit has been taken in support thereof;
 - (B) Be directed to a person authorized by the county to execute it;
 - (C) Command the person to whom it is directed to inspect the area, premises, building, or records identified for the purpose specified and, if appropriate, use reasonable force in conducting the inspection authorized by the warrant and direct the seizure of the property specified;
 - (D) Identify the item or types of property to be seized, if any; and
 - (E) Direct that it be served during the daylight business hours between 8:00 a.m. and 5:00 p.m. and designate the judge to whom it shall be returned;
- (3) A warrant issued pursuant to this section shall be executed and returned within ten days of its date unless, upon a showing of a need for additional time, the court orders otherwise. If property is seized pursuant to a warrant, a copy shall be given to the person from whom or from whose premises the property is taken, together with a receipt for the property taken. The return of the warrant shall be made promptly, accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if present, or in the presence of at least one credible person other than the person executing the warrant. A copy of the

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inventory shall be delivered to the person from whom or from whose premises the property was taken and to the applicant for the warrant; and

- (4) The judge who has issued a warrant shall attach thereto a copy of the return and all papers returnable in connection therewith and file them with the clerk of the issuing court."

SECTION 8. Section 53-84, Hawaii Revised Statutes, is amended to read as follows:

"§53-84 Incurring of indebtedness by the county. For the purpose of carrying out its powers, duties, and functions under this part, including for the payment of principal and interest upon any advances for moneys and plans for redevelopment projects, the county may:

- (1) Borrow and apply for and accept advances and loans; provided that unless the obligation of the county to repay such advances or satisfy such loans is limited to the revenues derived by the county from an undertaking as defined in section 53-85, the incurring by the county of any such indebtedness shall be carried out under and pursuant to chapter 47;
- (2) Issue its bonds under and pursuant to chapter 47, including, without limiting the foregoing, for the refunding of bonds issued by an agency of the county abolished as provided in section 53-81 and the refunding of bonds issued by the county under paragraph (3); and
- (3) Issue its bonds under and pursuant to section 53-16, all of the provisions of which shall be applicable to such bonds and to the county in the issuance thereof except as follows:
 - (A) Such bonds shall be issued only for the purpose of carrying out the powers, duties, and functions of the county under this part, including, without limiting the foregoing, the refunding of bonds issued by the county under this paragraph [(3)] or [the preceding] paragraphs (1) and (2) [of this section] or the refunding of bonds issued by an agency of the county abolished as provided in section 53-81;
 - (B) The principal of and interest on such bonds shall be payable and secured solely as provided in section 53-16(a)(1) and (2), and in no event shall be payable from the general fund of the county or from taxes or from any other funds or properties of the county other than those referred to in such paragraphs (1) and (2), nor shall such bonds be secured by the full faith and credit of the county or the general fund or the taxing power of the county;
 - (C) Neither the council nor any officer or employee of the county nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof;
 - (D) The bonds shall be limited obligations of the county payable and secured solely as provided in subparagraph (B) [of this section] and shall so state on their face;
 - (E) The words [][“members”][] or “officers” where used in section 53-16(e) shall mean members of the council and officers of the county; and
 - (F) The words “rents”, “fees”, and “revenues” where used in section 53-16(g) shall mean and include only those rents, fees, and revenues derived by the county from its activities under this part; the words “real or personal property” and “property”

where used in section 53-16(g) shall mean only the real or personal property held by the county for the purposes of this chapter and shall not include real or personal property held for other public uses and purposes, such as streets, parks, public buildings, publicly-owned utilities, and the like; and the word "bonds" where used in section 53-16(g) shall mean bonds of the county issued under section 53-16(g) as incorporated into this part and the bonds of any agency of the county abolished as provided in section 53-81."

SECTION 9. Section 92-24, Hawaii Revised Statutes, is amended to read as follows:

"§92-24 Directors of finance and commerce and consumer affairs; fees. The director of finance and the director of commerce and consumer affairs each shall charge the following fees:

- (1) For administering any oath, \$1;
- (2) For preparing every photostat copy of any document on record in his office, 50 cents per page or portion thereof;
- (3) For preparing every typewritten copy of any document on record in his office, 50 cents per page or portion thereof;
- (4) For preparing a certificate of compliance, \$5 for the original certificate, and \$1 for each additional copy thereof, of which \$4 from each certificate and 75 cents of each additional copy shall be deposited in the special fund [authorized by section 416-97,] referred to in section 415-128, and the balance deposited to the general fund of the State;
- (5) For comparing any document submitted for certification, 15 cents per page or portion thereof;
- (6) For certifying any document on record in his office, 25 cents for each certification;
- (7) For all other acts and duties, the fees of which are not otherwise provided for, such charges as each may from time to time prescribe."

SECTION 10. Section 92-28, Hawaii Revised Statutes, is amended to read as follows:

"§92-28 State service fees, increase or decrease of. Any law to the contrary notwithstanding, the fees or other nontax revenues assessed or charged by any board, commission, or other governmental agency, may, with the approval of the governor, be increased or decreased by the body in an amount not to exceed fifty per cent of the statutorily assessed fee or nontax revenue, in order to maintain a reasonable relation between the revenues derived from such fee or nontax revenue and the cost or value of services rendered, comparability among fees imposed by the State, or any other purpose which it may deem necessary and reasonable; provided that the authority to increase or decrease fees or nontax revenues shall extend only to the following: chapters [6, 28 (pt III,)] 36, 92, 94, 142, 144, 145, 147, 150, 171, 188, 189, 231, 269, 271, 321, 338, 373, 403, 407, 408, 409, 415, 421, 422, 425, 431, [434,] 438, 439, 440, 442, [443A,] 447, 448, 450, 452, 453, 455, 456, 457, 458, 459, 460, 461, 463, 464, 466, 467, 469, 471, 482, 485, 501, 502, 505, 514A, 572, [and] 574[;], and 846 (pt II); and provided further that this section shall not apply to fees charged by the University of Hawaii or to judicial fees as may be set by any chapter mentioned above."

SECTION 11. Section 104-1, Hawaii Revised Statutes, is amended by

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amending the definitions of "basic hourly rate" and "overtime compensation" to read as follows:

- "(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 [subsection] paragraph (6);"
- "(5) "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 [subsection] paragraph (6);"

SECTION 12. Section 174C-5, Hawaii Revised Statutes, is amended to read as follows:

"[§174C-5] General powers and duties. The general administration of the state water code shall rest with the commission on water resource management. In addition to its other powers and duties, the commission:

- (1) Shall carry out topographic surveys, research, and investigations into all aspects of water use and water quality.
- (2) Shall designate water management areas for regulation under this chapter where the commission, after the research and investigations mentioned in paragraph (1), shall consult with the appropriate county council and county water agency, and after public hearing and published notice, finds that the water resources of the areas are being threatened by existing or proposed withdrawals of water.
- (3) Shall establish an instream use protection program designed to protect, enhance, and reestablish, where practicable, beneficial instream uses of water in the State.
- (4) May contract and cooperate with the various agencies of the federal government and with state and local administrative and governmental agencies or private persons.
- (5) May enter, after obtaining the consent of the property owner, at all reasonable times upon any property other than dwelling places for the purposes of conducting investigations and studies, or enforcing any of the provisions of this code, being liable, however, for actual damage done. If consent cannot be obtained, reasonable notice shall be given prior to entry.
- (6) Shall cooperate with federal agencies, other state agencies, county or other local governmental organizations, and all other public and private agencies created for the purpose of utilizing and conserving the waters of the State, and assist such organizations and agencies in coordinating the use of their facilities and participate in the exchange of ideas, knowledge, and data with such organizations and agencies. For this purpose the commission shall maintain an advisory staff of experts.
- (7) Shall prepare, publish, and issue such printed pamphlets and bulletins as the commission deems necessary for the dissemination of information to the public concerning its activities.
- (8) May appoint and remove agents and employees including [hearing] hearings officers, specialists, and consultants necessary to carry out the purposes of this chapter and may be engaged by the commission without regard to the requirements of chapters 76 and 77 and section 78-1.

- (9) May acquire, lease, and dispose of such real and personal property as may be necessary in the performance of its functions, including the acquisition of real property for the purpose of conserving and protecting water and water related resources as provided in section 174C-14.
- (10) Shall identify, by continuing study, those areas of the State where salt water intrusion is a threat to fresh water resources and report its findings to the appropriate county mayor and council and the public.
- (11) Shall provide such coordination, cooperation, or approval necessary to the effectuation of any plan or project of the federal government in connection with or concerning the waters of the State. The commission shall approve or disapprove such federal plans or projects on behalf of the State. No other agency or department of the State shall assume the duties delegated to the commission under this paragraph, except that the department of health shall continue to exercise such powers vested in it with respect to water quality, and except that the department of [planning] business and economic development shall continue to carry out its duties and responsibilities under chapter 205A.
- (12) Plan and coordinate programs for the development, conservation, protection, control, and regulation of water resources based upon the best available information, and in cooperation with federal agencies, other state agencies, county or other local governmental organizations, and other public and private agencies created for the utilization and conservation of water.
- (13) Shall catalog and maintain an inventory of all water uses and water resources."

SECTION 13. Section 201E-2, Hawaii Revised Statutes, is amended by amending the definition of "eligible developer" to read:

" "Eligible developer" means any person, partnership, cooperative (including limited equity housing cooperatives as defined in chapter [421G,] 421H, firm, nonprofit or profit corporation, or public agency determined by the corporation:

- (1) To be qualified by experience and financial responsibility and support to construct housing of the type described and of the magnitude encompassed by the given project;
- (2) To have submitted plans for a project adequately meeting the objectives of this chapter, the maintenance of aesthetic values in the locale of the project, and the requirements of all applicable environmental statutes, and rules; and
- (3) To meet all other requisites the corporation deems to be just and reasonable, and all requirements stipulated in this chapter."

SECTION 14. Section 201E-3, Hawaii Revised Statutes, is amended by amending subsections (a), (b), and (c) to read as follows:

"[§]201E-3[] Housing finance and development corporation; establishment; board; staff. (a) There is established the housing finance and development corporation to be placed within the department of [planning] business and economic development for administrative purposes. The corporation shall be a public body and a body corporate and politic with perpetual existence.

(b) The corporation shall be headed by a board of directors which consists of eight members, of whom six shall be public members appointed by the governor as provided in section 26-34. Two public members shall be appointed at large; the remaining public members shall be appointed from each of the counties of Honolulu,

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Hawaii, Maui, and Kauai. The director of [planning] business and economic development and the special assistant for housing shall be ex officio voting members.

(c) The governor shall select a chairperson and vice-chairperson from among the members. The director of [planning] business and economic development shall not be ex officio chairperson of the board."

SECTION 15. Section 201E-161, Hawaii Revised Statutes, is amended to read as follows:

"~~[[§201E-161]] Mortgage guaranty agreements.~~ (a) In order to induce appropriate officials of any agency or instrumentality of the United States to commit to insure and insure mortgages under the provisions of the National Housing Act, as amended, the corporation may enter into guaranty agreements with such officials whenever:

- (1) The purchaser-mortgagor in question is ineligible for mortgage insurance purposes under the National Housing Act because of credit standing, debt obligation or income characteristics;
 - (2) The purchaser-mortgagor in question is a "displaced person" as defined in chapter 111 and the guaranty agreement will enable the purchaser-mortgagor to obtain suitable replacement housing in accordance with that chapter; and
 - (3) The corporation finds that such purchaser-mortgagor would be a satisfactory credit risk with ability to repay the mortgage loan if the purchaser-mortgagor were to receive budget, debt, management and related counseling.
- (b) Such guaranty agreements may obligate the corporation to:
- (1) Provide or cause to be provided such counseling; and
 - (2) Indemnify an agency or instrumentality of the United States for a period not to exceed five years for any loss sustained by such agency or instrumentality by reason of insurance of a mortgage.

~~(b) (c)~~ The total of guaranties made pursuant to this section and guaranties made pursuant to section 201E-160 shall not exceed \$10,000,000."

SECTION 16. Section 208-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The [members of the board of planning and economic development, as constituted by section 26-18, and the] following ex officio members: director of labor and industrial relations, director of finance, superintendent of education, and chairman of the board of land and natural resources, are designated as an area redevelopment council to advise and assist the director of business and economic development in carrying out the program provided for by this chapter."

SECTION 17. Section 209E-2, Hawaii Revised Statutes, is amended by amending the definitions of "department" and "director" to read:

" "Department" means the department of [planning] business and economic development.

"Director" means the director of [planning] business and economic development."

SECTION 18. Section 226-55, Hawaii Revised Statutes, is amended to read as follows:

"§226-55 Office of state planning; duties. The office shall provide as-

sistance and staff services to the policy council in administering this chapter. To further the intent and purpose of this chapter, the office shall:

- (1) Provide recommendations to the governor and the policy council on conflicts between and among this chapter, state functional plans approved by the governor, county general plans and development plans, and state programs;
- (2) Review and evaluate this chapter and recommend amendments as needed to the policy council;
- (3) Review, as necessary, major plans, programs, projects, and regulatory activities proposed by state and county agencies, and provide advisory opinions and reports to the policy council as needed;
- (4) Analyze existing state policies, planning and program operations, laws, rules and practices relative to formulation, implementation, and coordination of the state plan;
- (5) Review state capital improvement projects for consistency with this chapter and report findings and recommendations to the governor prior to allocation of funds;
- (6) Conduct special studies and prepare reports that address major policy issues relating to statewide growth and development;
- (7) Cooperate with all public agencies to ensure an ongoing, uniform, and reliable base of data and projections;
- (8) Assist the policy council in conducting a comprehensive review of part I [of this chapter] at least every four years following enactment by the legislature, and part III [of this chapter] at least every odd-numbered year;
- (9) Assist the policy council in preparing and submitting its biennial review and report to the legislature in accordance with section 226-62;
- (10) Prepare and adopt in consultation with the policy council, administrative guidelines in accordance with this chapter and chapter 91;
- (11) Provide other technical assistance and staff services to the policy council as needed; and
- (12) Prepare guidelines for the development and implementation of the state functional plans in accordance with [[sections 226-57 and 226-58]].

The office may contract with public and private agencies and persons for special research and planning assistance.”

SECTION 19. Section 235-4, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) A corporation, foreign or domestic, is taxable upon the income received or derived from property owned, trade or business carried on, and any and every other source in the State. In addition thereto a domestic corporation is taxable upon its income from property owned, trade or business carried on, and any and every other source outside the State, unless subjected to income tax thereon in any other jurisdiction. Subjection to federal tax does not constitute subjection to income tax in another jurisdiction. “Corporation” includes any professional corporation incorporated pursuant to chapter 415A or 416. ”

SECTION 20. Section 235-55.8, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) For the purposes of this section, a qualified exemption is defined to include those exemptions permitted under this chapter; provided that a person for whom exemption is claimed has physically resided in the State for more than nine

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months during the taxable year; and provided further that multiple exemptions shall not be granted because of age, deficiencies in vision or hearing, or other disability. For purposes of claiming the credit only, a minor child receiving support from the department of [social] human services [and housing] of the State, social security survivor's benefits, and the like, may be considered a dependent and a qualified exemption of the parent or guardian.”

SECTION 21. Section 235-110.7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There shall be allowed to each taxpayer subject to the tax imposed by this chapter a capital goods excise tax credit which 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 amount of the tax credit shall be determined by the application of the following rates against the cost of the eligible depreciable tangible personal property used by the taxpayer in a trade or business and purchased and placed in service within Hawaii after December 31, 1987. For calendar years beginning after: December 31, 1987, the applicable rate shall be 3 per cent; December 31, 1988, and thereafter, the applicable rate shall be 4 per cent. For taxpayers with fiscal taxable years, the applicable rate shall be the rate for the calendar year in which the eligible tangible personal property used in the trade or business is purchased and placed in service within Hawaii.

In the case of partners, S corporation shareholders, or beneficiaries of estates and trusts who are taxable on the distributive share of net income received, the credit under this section for the taxable year shall be allowable only to the extent of the ratio of the distributive share of income received from the partnership, S corporation, estate or trust to the entire gross income subject to the tax imposed by this chapter.

In the case of eligible tangible personal property for which a credit for sales or use taxes paid to another state is allowable under section 238-3(i), the amount of the credit allowed under this section shall not exceed the amount of the use tax actually paid under chapter 238 relating to such tangible personal property.

If a deduction is taken under section 179 (with respect to election to expense certain depreciable business assets) of the Internal Revenue Code of 1954, as amended, no credit shall be allowed for that portion of the cost of property for which the deduction was taken.”

SECTION 22. Section 304-66.2, Hawaii Revised Statutes, is amended to read as follows:

“[[§304-66.2 Qualifications for residency program.]] The school of medicine of the University of Hawaii shall recommend that two positions within the University of Hawaii medical residency program be filled each year commencing in 1987, in accordance with this subpart, by persons who have the necessary qualifications, other than the qualification of residency training, to take the examination for licensure as physicians under chapter 453, and who volunteer to enter into contracts under section 304-66.3, whether or not they are graduates of the school of medicine of the University of Hawaii. The department of [social services and housing] corrections and the department of health shall notify the school of medicine of the type of physicians needed by the correctional facilities and by rural communities. The school of medicine shall establish procedures to provide for applications by, and selection of, persons who are qualified and interested to fill the positions.”

SECTION 23. Section 304-66.4, Hawaii Revised Statutes, is amended to read as follows:

“[[§304-66.4]] Penalty for breach of contract. A person who is placed in the residency program under this subpart, but who breaches any term of the contract under section 304-66.3, shall pay to the State damages of \$10,000; provided that a contract shall not be deemed breached if the person has obtained a permanent license to practice medicine under chapter 453, but could not fulfill the requirements of section 304-66.3(3) and (4) because no employment vacancy existed in the correctional facilities of the department of [social services and housing] corrections or no shortage of physicians existed in any rural community and the department of [social services and housing] corrections or department of health, as applicable, certifies that no employment vacancy or shortage existed.”

SECTION 24. 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 developmentally disabled individuals requiring such care beyond the eighteenth birthday.

[[b][)] The rules of the department of [social] human services [and housing] 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 the effective date of this Act 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]].

[[c][)] 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 25. Section 321D-1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established a statewide interdepartmental cluster for services to children within the department of health which shall be comprised of representatives of major child-serving agencies with statewide authority and responsibility. The cluster shall include the department of education, the department of health, the department of [social] human services [and housing], the judiciary, and the office of children and youth as regular members. The department of health shall staff the cluster and provide an identified place where development and coordination of service plans and programs for the multisystem children having severe emotional and developmental problems may be done on a systematic basis.”

SECTION 26. Section 333F-13, Hawaii Revised Statutes, is amended to read as follows:

“[[§333F-13]] Payments for care and treatment of persons receiving services; liability. A parent, guardian of the property, or other person liable for the support of any person receiving services under this chapter may be required to pay such sums as may be determined by the department for the care and treatment of the person. The parent or guardian of the property of a minor receiving services under this chapter shall be liable for such care and treatment until the person admitted

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has reached the age of majority. The liability of a guardian of the property of a person under this section shall be limited to the estate of the ward and shall not be recoverable out of the individual assets of the guardian. Every person receiving services under this chapter and any property of the person's estate not exempt from execution shall be liable for the expense of the person's care and treatment. The attorney general, whenever requested by the director, shall take such steps as may be appropriate, by civil action if necessary, to enforce any liability established by this section. The attorney general may designate any appropriate county attorney to act in the attorney general's behalf in any enforcement proceeding.

The department, with the approval of the governor and from the funds appropriated to the department for the care and treatment of persons with developmental disabilities or mental retardation, may transfer from time to time to the department of [social] human services [and housing] such amounts as may be requested by the department of [social] human services [and housing] to match federal funds available under Title XIX of the Social Security Act to assist any indigent or medically indigent persons to pay for the care and treatment of any person receiving services under this chapter. The department may expend federal funds so received for the purposes of this chapter."

SECTION 27. Section 338-21, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) All children born out of wedlock, irrespective of the marriage of either natural parent to another, become legitimate (1) on the marriage of the natural [[parents[]]] with each other, (2) on the voluntary, written acknowledgements of paternity under oath signed by the natural father and the natural mother, or (3) on establishment of the parent and child relationship under chapter 584, and are entitled to the same rights as those born in wedlock and shall take the name so stipulated by their parents or, if the parents do not agree on the name, shall take the name specified by a court of competent jurisdiction to be the name that is in the best interests of the child. If legitimization is accomplished before the original certificate of birth is filed with the department of health, the original certificate of birth shall contain the name so stipulated. The child or children or the parents thereof may petition the department of health to issue a new original certificate of birth, and not a duplicate of the original certificate that has been amended, altered, or modified, in the new name of the legitimated child, and the department shall issue the new original certificate of birth upon being satisfied that the child or children has or have been legitimated. As used in this section "name" includes the first name, middle name, or last name."

SECTION 28. Section 347D-1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There is established a Hawaii state coordinating council on deafness within the department of [social] human services [and housing] for administrative purposes. The council shall consist of:

- (1) Seven representatives of state agencies, including the departments of health, education, labor and industrial relations, [social] human services [and housing], personnel services, the University of Hawaii, and the office of the governor;
- (2) Seven members who are hearing impaired or who are immediate family members of hearing impaired persons; and

- (3) Seven members of the public who have an interest in hearing impaired persons.”

SECTION 29. Section 350-1, Hawaii Revised Statutes, is amended by amending the definition of “child abuse or neglect” to read:

“ “Child abuse or neglect” means the acts or omissions of any person who, or legal entity which, is in any manner or degree related to the child, is residing with the child, or is otherwise responsible for the child’s care, that have resulted in the physical or psychological health or welfare of the child, who is under the age of eighteen, to be harmed, or to be subject to any reasonably foreseeable, substantial risk of being harmed. The acts or omissions are indicated for the purposes of reports by circumstances that include but are not limited to:

- (1) When the child exhibits evidence of:
 - (A) Substantial or multiple skin bruising or any other internal bleeding;
 - (B) Any injury to skin causing substantial bleeding;
 - (C) Malnutrition;
 - (D) Failure to thrive;
 - (E) Burn or burns;
 - (F) Poisoning;
 - (G) Fracture of any bone;
 - (H) Subdural hematoma;
 - (I) Soft tissue swelling;
 - (J) Extreme pain;
 - (K) Extreme mental distress;
 - (L) Gross degradation;
 - (M) Death; and
 such injury is not justifiably explained, or when the history given concerning such condition or death is at variance with the degree or type of such condition or death, or circumstances indicate that such condition or death may not be the product of an accidental occurrence; or
- (2) When the child has been the victim of sexual contact or conduct, including, but not limited to, [rape, sodomy,] sexual assault as defined in the penal code, molestation, sexual fondling, incest, or prostitution; obscene or pornographic photographing, filming, or depiction; or other similar forms of sexual exploitation; or
- (3) When there exists injury to the psychological capacity of a child as is evidenced by an observable and substantial impairment in the child’s ability to function; or
- (4) When the child is not provided in a timely manner with adequate food, clothing, shelter, psychological care, physical care, medical care, or supervision; or
- (5) When the child is provided with dangerous, harmful, or detrimental drugs as defined by section 712-1240; provided that this paragraph shall not apply when such drugs are provided to the child pursuant to the direction or prescription of a practitioner, as defined in section 712-1240.”

SECTION 30. Section 351-84, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

- “(c) Moneys remaining after disbursement under subsection (b) shall be

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disbursed to a judgment creditor, for the purpose of satisfying a judgment, [[moneys]] from the special account if:

- (1) The judgment creditor is a victim, a victim's representative, or other person specified in section 351-31, or a person who is not specified in section 351-31 but is the victim of a crime subject to this part;
- (2) The judgment is for the damages arising out of the criminal act of the convicted person;
- (3) A certified copy of the judgment is presented to the commission; and
- (4) There is no order staying the judgment or enjoining disbursement.

Judgment creditors shall be paid out of the special account in the order in which certified copies of the judgments are presented to the commission.”

SECTION 31. Section 353-11.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Except for the director and employees of the department of corrections, members of the Hawaii paroling authority, and those persons specified in section [353-47.] 353-29, no person shall enter or remain on the grounds of any state correctional facility unless permission to so enter or remain has been obtained from the administrator of the correctional facility, the administrator's designated representatives, or the director.”

SECTION 32. Section 353-22.6, Hawaii Revised Statutes, is amended to read as follows:

“[[§353-22.6[]] **Victim restitution.** The director of corrections shall enforce victim restitution orders against moneys earned by the prisoner while incarcerated. The amount deducted and paid once annually to the victim shall be ten per cent of the prisoner's annual earnings. This section shall not apply to moneys earned on work furlough pursuant to section [353-22.5.] 353-17. ”

SECTION 33. Section 353-62, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In addition to any other responsibility or duty prescribed by law for the Hawaii paroling authority, the paroling authority shall:

- (1) Serve as the central paroling authority for the State;
- (2) In selecting individuals for parole, consider for parole all committed persons, except in cases where the penalty of life imprisonment not subject to parole has been imposed, regardless of the nature of the offense committed;
- (3) Determine the time at which parole shall be granted to any eligible individual as that time at which maximum benefits of the correctional institutions to the individual have been reached and the element of risk to the community is minimal;
- (4) Establish rules of operation to determine conditions of parole applicable to any individual granted parole;
- (5) Provide continuing custody, control, and supervision of paroled individuals;
- (6) Revoke or suspend parole and provide for the authorization of return to a correctional institution for any individual who violates parole or any condition of parole when, in the opinion of the Hawaii paroling authority, the violation presents a risk to community safety or a significant deviation from any condition of parole;

- (7) Discharge an individual from parole when supervision is no longer needed;
- (8) Interpret the parole program to the public in order to develop a broad base of public understanding and support; and
- (9) Recommend to the legislature sound parole legislation and recommend to the governor sound parole administration.”

SECTION 34. Section 353D-4, Hawaii Revised Statutes, is amended to read as follows:

“[[§353D-4]] **Advisory council.** There is established within the department for administrative purposes an offender family service center program advisory council. The council shall consist of seven members, of whom two shall be offender family members. The members of the council shall be appointed by the director of [social services] corrections in consultation with private secular and religious organizations. The council may review and make recommendations to the director to improve the services rendered by the center.”

SECTION 35. Section 392-5, Hawaii Revised Statutes, is amended to read as follows:

“§392-5 Excluded services. “Employment” as defined in section 392-3 does not include the following service:

- (1) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, performed in any calendar quarter by an individual if the cash remuneration paid by the employer for such service is less than \$225;
- (2) Service not in the course of the employer’s trade or business performed in any calendar quarter by an individual, unless the cash remuneration paid for the service is \$50 or more and the service is performed by an individual who is regularly employed by the employer to perform the service. An individual shall be deemed to be regularly employed to perform service not in the course of the employer’s trade or business during a calendar quarter only if (A) on each of some twenty-four days during the quarter the individual performs the service for some portion of the day, or (B) the individual was regularly employed (as determined under subparagraph (A)) by the employer in the performance of the service during the preceding calendar quarter;
- (3) Service performed on or in connection with a vessel not an American vessel, if the individual performing the service is employed on and in connection with the vessel when outside the United States;
- (4) Service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, including service performed as an ordinary incident thereto, except (A) the service performed in connection with a vessel of more than ten net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States), and (B) the service performed in connection with a vessel of ten net tons or less (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States) by an individual who is employed by an employer who, for some portion in each of twenty different calendar weeks in either the

- current or preceding calendar year, had in the employer's employ one or more persons performing the service, whether or not the weeks were consecutive and whether or not the same individuals performed the service in each week, and (C) service performed in connection with the catching or taking of salmon or halibut for commercial purposes;
- (5) Service performed by an individual in the employ of the individual's son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of the child's father or mother;
 - (6) Service performed in the employ of the United States government or an instrumentality of the United States exempt under the Constitution of the United States from the contributions imposed by this chapter;
 - (7) Service performed in the employ of any other state, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more such states or political subdivisions; and any service performed in the employ of any instrumentality of one or more other states or their political subdivisions to the extent that the instrumentality is, with respect to such service, exempt from the tax imposed by section 3301 of the Internal Revenue Code of 1954;
 - (8) Service with respect to which temporary disability compensation is payable for sickness under a temporary disability insurance system established by an act of Congress;
 - (9) Service performed in any calendar quarter in the employ of any non-profit organization exempt from income tax under section 501 of the Internal Revenue Code of 1954, if (A) the remuneration for such service is less than \$50, or (B) the service is performed by a student who is enrolled and is regularly attending classes at a school, college, or university, or (C) the service is performed by a duly ordained, commissioned, or licensed minister or licensed minister of a church in the exercise of the minister's ministry or by a member of a religious order in the exercise of nonsecular duties required by the order, or (D) the service is performed for a church by an employee who fails to meet the eligibility requirements of section 392-25;
 - (10) Service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of the association or their dependents, if (A) no part of its net earnings inures (other than through such payments) to the benefit of any private shareholder or individual, and (B) eighty-five per cent or more of its income consists of amounts collected from members and amounts contributed by the employer of the members for the sole purpose of making such payments and meeting expenses;
 - (11) Service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of the association or their dependents or their designated beneficiaries, if (A) admission to membership in the association is limited to individuals who are officers or employees of the United States government, and (B) no part of the net earnings of the association inures (other than through such payments) to the benefit of any private shareholder or individual;
 - (12) Service performed in the employ of a school, college, or university, not exempt from income tax under section 501 of the Internal Revenue Code of 1954, if the service is performed by a student who is enrolled and is regularly attending classes at the school, college, or university;

- (13) Service performed in the employ of any instrumentality wholly owned by a foreign government, if: (A) the service is of a character similar to that performed in foreign countries by employees of the United States government or of an instrumentality thereof; and (B) the United States Secretary of State has certified or certifies to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States government and of instrumentalities thereof;
- (14) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has completed a four years' course in a medical school chartered or approved pursuant to state law;
- (15) Service performed by an individual for an employer as an insurance agent or as an insurance solicitor, if all such service performed by the individual for the employer is performed for remuneration solely by way of commission;
- (16) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;
- (17) Service covered by an arrangement between the department and the agency charged with the administration of any other state or federal unemployment compensation law pursuant to which all services performed by an individual for an employer during the period covered by the employer's duly approved election, are deemed to be performed entirely within the agency's state;
- (18) Service performed by an individual who, pursuant to the Federal Economic Opportunity Act of 1964, is not subject to the federal laws relating to unemployment compensation;
- (19) Domestic, which includes attendant care, and day care services authorized by the department of human services under the Social Security Act, as amended, performed by an individual in the employ of a recipient of social service payments;
- (20) Service performed by a vacuum cleaner salesman for an employing unit, if all such services performed by the individual for such employing unit are performed for remuneration solely by way of commission; or
- (21) Service performed by a participant in the workfare program for an employing unit under the supported work [] subcomponent [] of section 346-205."

SECTION 36. Section 394-9, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The department may adopt rules to further clarify qualifying businesses and industries, eligible job positions for training, and eligible persons for job training to promote economic expansion within the State and may consult with the department of [planning] business and economic development prior to issuing these rules.”

SECTION 37. Section 403-65, Hawaii Revised Statutes, is amended by amending its title to read as follows:

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“§403-65 Directors meetings; examination of reports.”

SECTION 38. Section 403-94, Hawaii Revised Statutes, is amended to read as follows:

“§403-94 Loan to officers, directors, or employees; restrictions; liability of officers and directors. Except as herein provided, no bank shall make any loan or loans to any of its officers, directors, agents, or employees, or to any company, firm, copartnership, or association, excluding however corporations, in which any of the officers or directors of the bank may be interested, either directly or indirectly, except upon the written application of such person, firm, copartnership, or association, stating the line of credit applied for, terms and security, if any, offered therefor to the board of directors or to the advisory, discount, or executive committee of the board, and then only with the written approval of a majority of the board or a majority of the advisory, discount, or executive committee of the bank before the loan is made, and the approval of the loan as allowed by the board or the advisory, discount, or executive committee of the bank shall be made a part of the minutes of the next directors' meeting of the bank. Loans may be made to any officer, director, agent, or employee of any bank, without such application and approval, (1) in any amounts where the loans are secured by bonds of the State, bonds or notes of the United States issued since April 24, 1917, or certificates of indebtedness of the United States, where the amount of the collateral is equal to at least one hundred five per cent of the amount of any such loan; and (2) in amounts, excluding loans so secured, not in excess of \$20,000 in aggregate principal owing by any such individual at any one time. Any officer, director, agent, or employee of any bank who knowingly permits the funds of the bank to be loaned in a dishonest manner or contrary to this chapter shall be held responsible in the officer's, director's, agent's, or employee's individual capacity for all damages which the bank, its shareholders, depositors, creditors, or any persons shall have sustained in consequence thereof.”

SECTION 39. Section 403-196.5, Hawaii Revised Statutes, is amended to read as follows:

“[§403-196.5] Priority of expenses and claims. In the event of the insolvency or voluntary or involuntary liquidation of any bank under this chapter, the expenses and claims shall have priority in the following order:

- (1) Administrative expenses;
- (2) Unsecured claims for wages, salaries, or commissions, including vacation, severance or sick leave pay, earned by an individual within ninety days before the date of the commissioner's possession in an amount not exceeding \$2,000 for each individual;
- (3) Claims of depositors. Any corporation guaranteeing or insuring the deposits is subrogated to all rights of the owners of such deposits to the extent of payment. The right of any agency of the United States insuring deposits to be subrogated to the rights of depositors upon payment of their claims may not be less extensive than the law of the United States requires as a condition of the authority to issue such insurance or make such payments to depositors of national banks;
- (4) All other unsecured claims in amounts allowed by the court, including claims of secured creditors to the extent the amount of their claims exceed the present fair market value of their collateral. The claim of a lessor for damages resulting from the termination of a lease of property may not be allowed in an amount in excess of the rent reserved

by the lease, without acceleration, for sixty days after the lessor repossessed the leased property, or the leased property was surrendered to the lessor, whichever first occurs, whether before or after the commissioner took possession of the institution, plus any unpaid rent due under the lease, without acceleration, on the date of possession or surrender. A claim for damages resulting from the termination of an employment contract, may not be allowed in an amount in excess of the compensation provided by the contract, without acceleration, for ninety days after the employee was directed to terminate or the employee terminated performance under the contract, whichever first occurs, whether before or after the commissioner took possession of the institution, plus any unpaid compensation due under the contract, without acceleration, on the date the employee was directed to terminate or the employee terminated performance. Claims for damages resulting from the termination of employment contracts of persons who were in control of the institution are not entitled to priority under this [subsection;] paragraph:

- (5) Claims for debts that are subordinated under the provisions of a subordination agreement or other instrument;
- (6) Claims of depositors who are controlling persons;
- (7) Claims of persons who were at any time in control of the institution;
- (8) All other claims.”

SECTION 40. Section 415-5, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) To the extent that an agent has been successful on the merits or otherwise in [] defense of any proceeding referred to in subsection (b) or (c), or in [] defending any claim, issue, or matter therein, the agent shall be indemnified by the corporation against expenses actually and reasonably incurred by the agent in connection therewith.”

SECTION 41. Section 415B-7, Hawaii Revised Statutes, is amended to read as follows:

“§415B-7 Corporate name. The corporate name shall not be the same as, or substantially identical to, the name of any domestic corporation, partnership, or trade name existing or registered under the laws of this State or any foreign corporation or partnership authorized to transact business or trade name registered in this State, or a name the exclusive right to which is, at the time reserved in the manner provided under the laws of this State, [] or the name of a corporation which has in effect a registration of its corporate name as provided under the laws of this State, [] except that this provision shall not apply if the applicant delivers to the director for filing either of the following:

- (1) The written consent of the other corporation or holder of a reserved or registered name to use the same or substantially identical name and one or more words are added to make the name distinguishable from the other name, or
- (2) A certified copy of a final decree of a court of competent jurisdiction establishing the prior right of the applicant to the use of the name in this State.”

SECTION 42. Section 415B-92, Hawaii Revised Statutes, is amended to read as follows:

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"§415B-92 Plan of distribution. Subject to this chapter, a plan providing for the distribution of assets may be adopted by a corporation in the process of dissolution and shall be adopted by a corporation for the purpose of authorizing any transfer or conveyance of assets for which this chapter requires a plan of distribution, in the following manner:

- (1) The board of directors shall adopt a resolution recommending a plan of distribution and directing the submission thereof to a vote [] at an annual or special meeting of members entitled to vote [] thereon. Written notice setting forth the proposed plan of distribution or a summary thereof shall be given to each member entitled to vote at the meeting, pursuant to this chapter. The plan of distribution shall be adopted upon receiving at least two-thirds of the votes which members present at the meeting or represented by proxy are entitled to cast.
- (2) If there are no members or no members entitled to vote on the plan of distribution, a plan shall be adopted at a meeting of the board of directors upon receiving a vote of a majority of the directors in office."

SECTION 43. Section 415B-96, Hawaii Revised Statutes, is amended to read as follows:

"§415B-96 Revocation of voluntary dissolution proceedings. At any time prior to the filing of the articles of dissolution by the director, a corporation may revoke the action [therefore] theretofore taken to dissolve the corporation in the following manner:

- (1) The board of directors shall adopt a resolution recommending that the voluntary dissolution proceedings be revoked, and directing that the question of revocation be submitted to a vote at an annual or special meeting of members entitled to vote thereon. Written notice stating that the purpose, [] or one of the purposes, [] of the meeting is to consider the advisability of revoking the voluntary dissolution proceedings, shall be given to each member entitled to vote at the meeting pursuant to this chapter. A resolution to revoke the voluntary dissolution proceedings shall be adopted upon receiving at least two-thirds of the votes which members present at the meeting or represented by proxy are entitled to cast.
- (2) If there are no members or no members entitled to vote on the revocation of voluntary dissolution proceedings, a resolution to revoke the voluntary dissolution proceedings shall be adopted at a meeting of the board of directors upon receiving the vote of a majority of the directors in office.

Upon the adoption of the resolution by the members, or by the board of directors where there are no members or no members entitled to vote thereon, the corporation may again conduct its affairs."

SECTION 44. Section 415B-108, Hawaii Revised Statutes, is amended to read as follows:

"§415B-108 Sale, lease, exchange, or mortgage of assets. A sale, lease, exchange, mortgage, pledge, or other disposition of all, or substantially all, of the property [] and assets of a corporation may be made upon such terms and [] conditions and for such consideration, which may consist in whole or in part of money or property, real or personal, including shares of any corporation for profit, domestic or foreign, as may be authorized in the following manner:

- (1) If there are members entitled to vote thereon, the board of directors shall adopt a resolution recommending the sale, lease, exchange, mortgage, pledge, or other [] disposition and direct that it be submitted to [] a vote at an annual or special meeting of members entitled to vote thereon. Written notice stating that the purpose, or one of the purposes, of the meeting is to consider the [] sale, lease, exchange, mortgage, pledge, or [] other disposition of all, or substantially all, of the property and assets of the corporation shall be given to each member entitled to vote at the meeting, pursuant to this chapter. At the meeting the members may authorize the sale, lease, exchange, mortgage, pledge, or other disposition and may fix, or may authorize the board of directors to fix, any or all of the terms and conditions thereof and the consideration to be received by the corporation therefor. The authorization shall require at least two-thirds of the votes which members present at the meeting or represented by proxy are entitled to cast. Notwithstanding the authorization by a vote of members, the board of directors may abandon the sale, lease, exchange, mortgage, pledge, or other disposition of assets, subject to the rights of third parties under any contracts relating thereto, without further action or approval by members; or
- (2) If there are no members or no members entitled to vote thereon, a sale, lease, exchange, mortgage, pledge, or other disposition of all, or substantially all, of the property and assets of a corporation shall be authorized upon receiving the vote of a majority of the directors in office.

Nothing in this section shall require a vote of the members with respect to any sublease, exchange, mortgage, pledge, or distribution of assets of the corporation in the normal and continuing course of the corporation's business."

SECTION 45. Section 415B-155, Hawaii Revised Statutes, is amended to read as follows:

"§415B-155 Fees for filing documents and issuing certificates. The following fees shall be paid to the director upon the filing [] of [] corporate documents:

- (1) Articles of incorporation, \$25;
- (2) Articles of amendment, \$10;
- (3) Restated articles of incorporation, \$10;
- (4) Articles of merger or consolidation, \$50;
- (5) Articles of dissolution, \$10;
- (6) Annual report of nonprofit domestic and foreign corporations, \$1;
- (7) Filing any other statement or report, except an annual report, of a nonprofit domestic or foreign corporation, \$10;
- (8) Application for a certificate of authority, \$25;
- (9) Application for a certificate of withdrawal, \$10;
- (10) Reservation of corporate name, \$10;
- (11) Transfer of reservation of corporate name, \$10;
- (12) Good standing certificate, \$15;
- (13) Special handling fee for review of corporation documents, excluding articles of merger or consolidation, \$40;
- (14) Special handling fee for review of articles of merger or consolidation, \$100;
- (15) Special handling fee for certificates issued by the department, \$10 per certificate; and

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(16) Special handling fee for certification of documents, \$1 per page.

All special handling fees shall be credited to a special fund which may be established for use by the department in expediting the processing of documents. At least two temporary business registration assistant I positions shall be paid out of the special fund."

SECTION 46. Section 415B-157, Hawaii Revised Statutes, is amended to read as follows:

"§415B-157 Penalties imposed upon corporation. Any domestic or foreign corporation that fails or refuses to file its annual report for any year within the time prescribed by this chapter shall be subject to a penalty of \$25 to be assessed by the director. The director may waive the imposition of the penalty upon a showing of good cause.

Any domestic or foreign corporation that fails or refuses to truthfully and fully answer, within the time prescribed by this chapter[], interrogatories propounded by the director pursuant to this chapter[] shall be subject to a class C felony."

SECTION 47. Section 421H-1, Hawaii Revised Statutes, is amended by amending the definition of "limited-equity housing cooperative" to read as follows:

"(2) "Limited-equity housing cooperative" means a stock cooperative corporation which is organized as a nonprofit corporation under sections 416-19 and 416-26 or chapter 415B for the purpose of holding title to, either in fee simple or for a term of years, improved real property, if all or substantially all of the shareholders of such corporation receive a right of exclusive occupancy in a portion of the real property, title to which is held by the corporation, which right of occupancy is transferable only concurrently with the transfer of the share or shares of stock in the corporation held by the person having such right of occupancy; provided the corporation also:

- (A) Is organized so that the consideration paid for an individual membership share by the first occupant following construction or acquisition by the corporation, including the principal amount of obligation incurred to finance the membership share, does not exceed seven per cent of the respective dwelling unit's development cost, acquisition cost, or of the fair market value appraisal by the permanent lender, whichever is greater; and
- (B) Holds title to real property as the beneficiary of a trust providing for distribution for public or charitable purposes upon termination of the trust; or
- (C) Holds title to real property subject to conditions which will result in reversion to a public or charitable entity for affordable housing upon dissolution of the corporation; or
- (D) Holds a leasehold interest conditioned on the corporation's continued qualification under this chapter and providing for reversion to a public entity or charitable corporation for affordable housing."

SECTION 48. Section 425-12, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The following special handling fees shall be assessed by the director for expeditious review of the following documents:

- (1) For limited partnerships: certificate of amendment, \$40; certificate of cancellation, \$10; annual statement, \$10; certificate of limited partnership, \$1 a page; certificate of good standing, \$10;
- (2) For general partnerships: registration statement, \$10; change of name statement, \$10; partnership dissolution statement, \$10; annual statement, \$10; certification of general partnership, \$1 a page; certificate of good standing, \$10;
- (3) For foreign general and foreign limited partnerships: registration statement of foreign general partnership, \$10; registration statement of foreign limited partnership, \$40; withdrawal application, \$10; annual statement, \$10; certification of foreign general or foreign limited partnership, \$1 a page; certificate of good standing, \$10.

All special handling fees shall be credited to the special fund authorized by section [416-97.] 415-128."

SECTION 49. Section 425-22, Hawaii Revised Statutes, is amended to read as follows:

"§425-22 Formation. Two or more persons (as defined in section 425-102), any of whom may be acting in a fiduciary capacity, desirous of forming a limited partnership, shall sign and file a certificate, as follows:

- (1) The certificate shall state:
 - (A) The name of the partnership;
 - (B) The character of the business;
 - (C) The location of the principal place of business;
 - (D) The name and place of residence of each member; general and limited partners being respectively designated;
 - (E) The term for which the partnership is to exist;
 - (F) The amount of cash and a description of and the agreed value of the other property contributed by each limited partner;
 - (G) The additional contributions, if any, agreed to be made by each limited partner and the times at which or events on the happening of which they are to be made;
 - (H) The time, if agreed upon, when the contribution of each limited partner is to be returned;
 - (I) The share of the profits or the other compensation by way of income which each limited partner is to receive by reason of the limited partner's contribution;
 - (J) The right, if given, of a limited partner to substitute an assignee as contributor in the limited partner's place, and the terms and conditions of the substitution;
 - (K) The right, if given, of the partners to admit additional limited partners;
 - (L) The right, if given, of one or more of the limited partners to priority over other limited partners, as to contributions or as to compensation by way of income and the nature of the priority;
 - (M) The right, if given, of the remaining general partner or partners to continue the business on the death or retirement of a general partner, or on the order of a court of competent jurisdiction adjudicating a general partner incompetent to manage the general partner's person or the general partner's property; and
 - (N) The right, if given, of a limited partner to demand and receive property other than cash in return for the limited partner's contribution.

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(2) The certificate shall be certified by each of the persons and shall be filed in the office of the director of commerce and consumer affairs.

A limited partnership is formed if there has been a substantial compliance in good faith with the foregoing requirements.

The director shall preserve the certificate and keep a record of the same, which shall be duly indexed. The certificate, record, and index shall, during all business hours, be open to the inspection of the public, free of charge. A fee of \$1.50 shall be charged for each name signed to any certificate. A special handling fee of \$40, credited to the special fund authorized by section [416-97] 415-128 may be charged to expedite the processing of the certificate of limited partnership required to be filed pursuant to this section.”

SECTION 50. Section 444-16.5, Hawaii Revised Statutes, is reenacted.

“§444-16.5 Bond. The contractors license board may require each licensee, applicant, individual or corporate, who is a specialty contractor to put up bond in the sum of not less than \$5,000 executed by the licensee or applicant as principal and by a surety company authorized to do business in the State as surety.

The board may require each licensee, applicant, individual or corporate, who is a general contractor to put up a bond in the sum of not less than \$5,000 executed by the licensee or applicant as principal and by a surety company authorized to do business in the State as surety.

The board, in exercising its discretion shall take into consideration the licensee's or applicant's financial condition and experience in the field.

The bond shall be in such form as the board may prescribe, conditioned upon the payment of wages, as defined in section 104-1(6), to the employees of the contractor or any other person or entity entitled to such wages when due, and giving employees or any other person or entity entitled to such wages who have not been paid a right of action on the bond in their own names; and upon the honest conduct of the business of the licensee, and upon the right of any person injured or damaged by any wrongful act of the licensee to bring an action on the bond; provided that any claim for wages shall have priority over all other claims.”

SECTION 51. Section 478-9, Hawaii Revised Statutes, is amended to read as follows:

“§478-9 Rejection of federal law. It is hereby explicitly stated by the terms of this [Act] section that the provisions of Title V, Part A-Mortgage Usury Laws, Mortgages, Section 501(a)(1) and of Part B-Business and Agricultural Loans, of the Depository Institutions Deregulation and Monetary Control Act of 1980 shall not apply with respect to loans, mortgages, credit sales, and advances made in this State, and that this State does not want the provisions of Title V, Part A-Mortgage Usury Laws, Mortgages, Section 501(a)(1) and of Part B-Business and Agricultural Loans, of the Depository Institutions Deregulation and Monetary Control Act of 1980 to apply with respect to loans, mortgages, credit sales, and advances made in this State.”

SECTION 52. Section 480-14, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Whenever the State, any county, or city and county is injured in its business or property by reason of anything forbidden or declared unlawful by this chapter, it may sue to recover threefold the [][actual[]] damages sustained by it.”

SECTION 53. Section 480-14, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) If judgment is in favor of the State or any of its political subdivisions or governmental agencies under any provision of this chapter, the attorney general shall be awarded reasonable attorney’s fees together with the cost of suit; provided further that in any class action lawsuit brought by the attorney general in behalf of indirect purchasers, the attorney general shall in addition be awarded an amount commensurate with expenses reasonably expected to be expended in distribution of damages [to] the indirect purchasers.”

SECTION 54. Section 482-3, Hawaii Revised Statutes, is amended to read as follows:

“§482-3 Record, issuance and effect of certificate. Upon receiving the application accompanied by the fee, the director of commerce and consumer affairs shall cause the print, label, trademark, service mark, or trade name to be recorded and shall issue to the applicant a certificate of registration under the seal of the director; and the certificate of registration shall be constructive notice to all persons of the applicant’s claim of the use of the print, label, trademark, service mark, or trade name throughout the State, for the term of one year from the date thereof; provided that the director shall not register any print, label, trademark, service mark, or trade name which is substantially identical with any registered print, label, trademark, service mark, or trade name or with the name of any corporation or partnership registered in accordance with chapters 415, 415A, 415B, 416, 418, and 425; provided further that the print, label, trademark, service mark, or trade name is continued in actual use by the applicant in the State or elsewhere in the United States or is registered in the name of the applicant in the patent and trademark office of the United States. The acceptance of an application and issuance of a certificate of registration by the director shall not abrogate or limit any common law or other right of any person to any corporation or partnership name, trade name or trademark.

The registration of a print, label, trademark, service mark, or trade name may be renewed at any time during a period of its registration for additional periods of ten years from the date of renewal by the filing of an application for renewal of registration in the form as the director may provide. Upon filing the application for renewal the applicant shall pay the director a fee of \$25, of which \$15 shall be deposited in the special fund authorized by section 415-128, and the balance deposited to the general fund of the State.

The director may make, amend, and repeal such rules as may be necessary to carry out the purposes of this section.”

SECTION 55. Section 485-2, Hawaii Revised Statutes, is amended by amending its title to read as follows:

“§485-2 Commissioner of securities[; rules and regulations; deputies; vacancies].”

SECTION 56. Section 502-17, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The registrar shall accept and file in the registrar’s office, upon the payment of the fee as provided in section 502-25, any plan of land prepared in the manner prescribed by this section. Every such plan shall contain a short name of the tract; the name of the ahupuaa [or] ili, district, and island; such data concerning the original title of the land as may be known, together with name of the last owner of record and the owner’s address; the signature of the surveyor and the

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surveyor's address; the signature of the maker and the maker's address; date of survey, scale, the meridian line, area, the true azimuths and lengths of principal lines; and the names of all known adjoining owners. One or more durable monuments shall be placed on the land which shall connect with the government triangulation system and which monuments shall be placed as indicated on the plan. Whenever the land platted is made up of more than one original title, it shall be necessary to show all original title lines in broken lines as follows:

.....”

SECTION 57. Section 560:2-105.5, Hawaii Revised Statutes, is amended to read as follows:

“[§560:2-105.5] Escheat of kuleana lands. Any provision of law to the contrary notwithstanding, if the owner of an inheritable interest in kuleana land dies intestate, or dies partially intestate and that partial intestacy includes the [decedent's] interest in the kuleana land, and if there is no taker under article II, such inheritable interest shall pass to the department of land and natural resources to be held in trust until the office of Hawaiian affairs develops a land management plan for the use and management of such kuleana properties, and such plan is approved by the department of land and natural resources. Upon approval, the department of land and natural resources shall transfer such kuleana properties to the office of Hawaiian affairs. For the purposes of this section, “kuleana lands” means those lands granted to native tenants pursuant to L. 1850, p. 202 entitled “An Act Confirming Certain Resolutions of the King and Privy Council, Passed on the 21st Day of December, A.D. 1849, Granting to the Common People Allodial Titles for Their Own Lands and House Lots, and Certain Other Privileges”, as originally enacted and as amended.”

SECTION 58. Section 586-10.5, Hawaii Revised Statutes, is amended to read as follows:

“[§586-10.5] Reports by the department of [social] human services [and housing]. In cases where there are allegations of domestic abuse involving a minor family or household member, the employee or appropriate nonjudicial agency designated by the family court to assist the petitioner shall report the matter to the department of [social] human services [and housing], as required under chapter 350, and shall further notify the department of the granting of the temporary restraining order and of the hearing date. The department of [social] human services [and housing] shall provide the family court with an oral or written report of the investigation's progress on or before the hearing date.”

SECTION 59. Section 588-4, Hawaii Revised Statutes, is amended to read as follows:

“[§588-4] Duties of the director. The director shall:

- (1) Enter into agreements with police departments, departments of the prosecuting attorneys and county corporation counsels, the departments of the attorney general, health, [social] human services [and housing], and other public and private agencies, including agreements for the temporary assignment of appropriate personnel from each agency to the program;

- (2) Enter into contracts for the provision of specialized training and continuing education for interviewers of child sex abuse victims from both public and private agencies;
- (3) Arrange for the conduct of interviews of child sex abuse victims at the child's home or other appropriate setting, to include the selection of the interviewer for each child sex abuse victim;
- (4) Coordinate the therapeutic and treatment services by public and private agencies for child sex abuse victims;
- (5) Coordinate the flow of information between the agencies responsible for criminal prosecution and those agencies responsible for protective action in civil proceedings;
- (6) Arrange for the exchange of information, to include statistical data from public and private agencies involved in child sex abuse programs and issues;
- (7) Develop recommendations and plans for action to assist the public and private agencies involved in child sex abuse cases; and
- (8) Prepare and maintain records and reports for the program.”

SECTION 60. Section 710-1077, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

- “(1) A person commits the offense of criminal contempt of court if:
- (a) The person recklessly engages in disorderly or contemptuous behavior, committed during the sitting of a court in its immediate view and presence, and directly tending to interrupt its proceedings or impair the respect due to its authority;
 - (b) The person creates a breach of peace or a disturbance with intent to interrupt a court’s proceedings;
 - (c) As an attorney, clerk, or other officer of the court, the person knowingly fails to perform or violates a duty of the person’s office, or knowingly disobeys a lawful directive or order of a court;
 - (d) The person knowingly publishes a false report of a court’s proceedings;
 - (e) Knowing that the person is not authorized to practice law, the person represents the person’s self to be an attorney and acts as such in a court proceeding;
 - (f) The person intentionally records or attempts to record the deliberation of a jury;
 - (g) The person knowingly disobeys or resists the process, injunction, or other mandate of a court;
 - (h) The person intentionally refuses to be qualified as a witness in any court or, after being qualified, to answer any proper interrogatory without a privilege to refuse to answer;
 - (i) Being a juror, the person intentionally, without permission of the court, fails to attend a trial or official proceeding to which the person has been summoned or at which the person has been chosen to serve; or
 - (j) The person is in violation or disobedience of any injunction or order expressly provided for in part V of chapter 712.”

SECTION 61. Section 804-4, Hawaii Revised Statutes, is amended to read as follows:

“§804-4 When a matter of right. If the charge is for an offense for which bail is allowable under section 804-3, the defendant may be admitted to bail before conviction as a matter of right. The right to bail shall continue after conviction of

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a misdemeanor, petty misdemeanor or violation, and release on bail may continue, in the discretion of the court after conviction of a felony until the final determination of any motion for a new trial, appeal, habeas corpus, or other proceedings which are made, taken, issued, or allowed for the purpose of securing a review of the rulings, verdict, judgment, sentence, or other proceedings of any court or jury in or by which the defendant has been arraigned, tried, convicted, or sentenced; except that no bail shall be allowed after conviction and prior to sentencing in cases where bail was not available after conviction and prior to sentencing in cases where bail was not available under section 804-3, or where bail was denied or revoked before conviction; and provided further that no bail shall be allowed pending appeal of a felony conviction where a sentence of imprisonment has been imposed. The court shall order that a person who has been found guilty of an offense and sentenced to a term of imprisonment, and who has filed an appeal or a petition for a writ [[of]] certiorari, be detained, unless the court finds:

- (1) By clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released; and
- (2) That the appeal is not for purpose of delay and raises a substantial question of law or fact likely to result in reversal or an order for a new trial.

If the court makes such findings, he shall order the release of the person in accordance with the provisions of section 804-7.1. No defendant entitled to bail, whether bailed or not, shall, without the defendant's written consent, be subject to the operation of any sentence passed upon the defendant while any proceedings to procure a review of any action of the trial court or jury in the premises are pending and undetermined, except as provided in section 641-14(a)."

SECTION 62. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 63. This Act shall take effect on July 1, 1988.

(Approved June 1, 1988.)

ACT 142

S.B. NO. 2363

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds to Assist Manufacturing Enterprises.

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. Presently, the State's economy is highly concentrated in a few industries and diversification of the State's economy is urgently needed to provide a broader economic base to create new employment opportunities, to increase tax revenues, and to stimulate the infusion of new capital into the State, which will ultimately improve the general welfare and economic well-being of residents of Hawaii.

The legislature further finds that a project with significant potential to stimulate new enterprises and to provide new and increased employment opportunities has been undertaken by Chronar Corporation, or its subsidiaries, and Energy Conversion Devices, Inc., or its subsidiaries, to manufacture amorphous silicon alloy

photovoltaic products or devices using a multijunction approach which yields stable and efficient solar cells on flexible, unbreakable substrates.

The legislature finds that part III, chapter 39A, Hawaii Revised Statutes, permits the State to financially assist manufacturing enterprises through the issuance of special purpose revenue bonds.

SECTION 2. 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 \$30,000,000 in one or more series for the purpose of assisting Energy Conversion Devices, Inc., a Michigan corporation, or its subsidiaries, or Chronar Corporation, or its subsidiaries, or a partnership in which either Energy Conversion Devices, Inc., or Chronar Corporation is a general partner, in the generation of new capital for the manufacture of amorphous silicon alloy photovoltaics products or devices in Hawaii. The legislature finds and determines that the activities and facilities of Energy Conversion Devices, Inc., or its subsidiaries, and of Chronar Corporation, or its subsidiaries, constitute a project as defined in part III, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to a manufacturing enterprise.

SECTION 3. The department of business and economic development, with assistance from the Hawaii Natural Energy Institute, shall perform a technical and economic analysis of both Energy Conversion Devices, Inc., and Chronar Corporation and recommend one of them to the department of budget and finance to be assisted by the issuance of special purpose revenue bonds under this Act.

SECTION 4. The special purpose revenue bonds issued under this Act shall be issued pursuant to part III, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist manufacturing enterprises.

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

(Approved June 1, 1988.)

ACT 143

S.B. NO. 2418

A Bill for an Act Relating to the Release of Mortgages of Real Property or Fixtures.

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

SECTION 1. Chapter 506, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§506- Release of mortgages of real property or fixtures. The mortgagee of real property or the record assignee of a mortgage interest shall provide to the mortgagor a release of mortgage upon full satisfaction of the mortgage and discharge of any debt secured thereby. The instrument shall be duly acknowledged, shall sufficiently describe the mortgage which has been satisfied, and be recordable in the bureau of conveyances or office of the assistant registrar of the land court, or both, as appropriate. If the mortgagee or record assignee fails to provide a release of the mortgage as required by this section within sixty days from the date of a request made in writing by any party in interest, and sent by certified or registered mail to the mortgagee or record assignee at its last known address, the mortgagor or a company issuing title insurance to a new owner of the mortgaged subject real property or to another mortgagee of the subject real property, or the escrow company

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charged by the mortgagor with obtaining such release of mortgage, or any other party in interest, as plaintiff, may institute an action in any circuit court to obtain the release of mortgage. The plaintiff in such action shall mail a copy of the complaint to the mortgagee or record assignee by certified or registered mail addressed to the mortgagee or record assignee at its last known address. If the mortgagee or record assignee does not file an answer to the complaint within forty-five days after such mailing, the court, upon receipt of an affidavit of mailing required by this section and upon satisfactory proof that the mortgage debt has been discharged and the mortgage has been fully satisfied, shall issue an order releasing the mortgage, and this order shall be recorded in the bureau of conveyances or office of the assistant registrar of the land court, or both, as appropriate. Upon a finding of good cause by the court, the plaintiff shall be entitled to treble damages and reasonable attorneys fees and costs incurred in any such action unless the court finds that the mortgagee had a reasonable basis for believing that a dispute existed regarding whether the mortgage should have been released.”

SECTION 2. New statutory material is underscored.¹

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

(Approved June 1, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

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S.B. NO. 2760

A Bill for an Act Relating to the Juvenile Justice Interagency Board.

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

SECTION 1. Section 571D-1, Hawaii Revised Statutes, is amended to read as follows:

“§571D-1 Juvenile justice interagency board. There is established within the department of the attorney general for administrative purposes the juvenile justice interagency board, consisting of [nine] eleven voting members which shall include a police chief of one of the counties, the prosecuting attorney of a county, a representative from a private social service agency, and two additional members, all appointed by the governor as provided in section 26-34, and the superintendent of education, the public defender, the director of corrections, the director of health, the director of human services, and the senior judge of the first circuit family court as ex officio members. The composition of the board shall include a resident member from each county in the State.

The attorney general shall designate the executive secretary of the board.”

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

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

(Approved June 1, 1988.)

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S.B. NO. 2798

A Bill for an Act Relating to Real Estate.

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

SECTION 1. Section 467-1, Hawaii Revised Statutes, is amended to read as follows:

“§467-1 Definitions. As used in this chapter:

“Commission” means the real estate commission of the State.

“Custodian or caretaker” means any person, who for compensation or valuable consideration, is employed either directly or indirectly by a single owner and has the responsibility to manage or care for that real property left in the person’s trust; provided that the term “custodian” or “caretaker” shall not include any person who leases or offers to lease, or rents or offers to rent, any real estate for more than a single owner; provided further that a single owner shall not include an association of owners of a condominium, cooperative or planned unit development.

“Hotel” includes a structure of structures used primarily for the business of providing transient lodging for periods of less than thirty days and which furnishes customary hotel services including, but not limited to, front desk, restaurant, daily maid and linen service, bell service, or telephone switchboard; provided that for the purposes of this chapter, apartments in a project as defined by section 514A-3 that provide customary hotel services shall be excluded from the definition of hotel. The definition of hotel as set forth in this section shall be in addition to and supplement the definition of “hotel” as set forth in the various county ordinances.

“Real estate” means and includes lands, the improvements thereon, leaseholds, and all other interests in real property. It shall be immaterial that a transaction also involves property other than real estate, as for example a transaction for the sale of an ongoing business, an asset of which consists of a leasehold or other interest in real property. In such a case, to the extent that real estate is involved, it shall be considered a real estate transaction for the purpose of this definition.

“Real estate broker” means and includes any person, copartnership, or corporation, who for compensation or a valuable consideration, sells or offers to sell, buys or offers to buy, or negotiates the purchase or sale or exchange of real estate, or lists, or solicits for prospective purchasers, or who leases or offers to lease, or rents or offers to rent, any real estate, or the improvements thereon, for others, as a whole or partial vocation; or who secures, receives, takes, or accepts, and sells or offers to sell, any option on real estate without the exercise by the person, copartnership, or corporation of the option and for the purpose or as a means of evading the licensing requirement of this chapter.

“Real estate salesman” means any person who, for a compensation or valuable consideration, is employed either directly or indirectly by a real estate broker, or is an independent contractor in association with a real estate broker, to sell or offer to sell, buy or offer to buy, or list, or solicit for prospective purchasers, or who leases or offers to lease, or rents or offers to rent any real estate, or the improvements thereon, for others as a whole or partial vocation; or who secures, receives, takes, or accepts, and sells or offers to sell, any option on real estate without the exercise by the person of such option and for the purpose or as a means of evading the licensing requirements of this chapter. Every real estate salesman must be under the direction of a broker for all real estate transactions. All references in this chapter to “real estate salesman” includes “real estate salesperson”.”

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SECTION 2. Section 467-11, Hawaii Revised Statutes, is amended to read as follows:

“§467-11 Fees; original license and biennial renewals. (a) [The fee] All fees for any license prescribed by this chapter and all fees allocated to the real estate education fund shall be [as follows]:

- (1) To act as a real estate broker, \$50, \$20 of which shall be deposited in the real estate education fund;
- (2) To act as a real estate salesperson, \$50, \$20 of which shall be deposited in the real estate education fund;
- (3) Biennial renewal for broker, \$100, \$20 of which shall be deposited in the real estate education fund;
- (4) Biennial renewal for salesperson, \$50, \$20 of which shall be deposited in the real estate education fund;
- (5) To obtain a branch office license, \$50;
- (6) To reinstate a suspended license, \$25;
- (7) Biennial renewal of inactive broker license, \$100, \$20 of which shall be deposited in the real estate education fund;
- (8) Biennial renewal of inactive salesperson license, \$50, \$20 of which shall be deposited in the real estate education fund.

(b) A fee of \$10 shall be charged for the reissuance of a lost license, or for the reissuance of license when there has been a change in the licensee's name or for the reissuance of license where there has been a change in the business address, or, in the case of a salesperson, when the salesperson is either employed by or associated with a different broker.] as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91.

[c)] (b) The biennial renewal fee shall be paid to the [real estate commission] department of commerce and consumer affairs on or before December 31 of each even-numbered year. Failure, neglect, or refusal of any duly licensed real estate broker or real estate salesperson to pay the biennial renewal fee shall constitute a forfeiture of the license of the broker or salesperson. The license of the broker or salesperson may be restored upon written application therefor, [the] payment [to the commission] of the delinquent [fee] fees and [a] the penalty [fee of \$10,] fees as provided in the rules adopted by the director of commerce and consumer affairs pursuant to chapter 91, and satisfaction of such other requirements as the commission may impose as a condition to restoration.

[d)] (c) A broker or salesperson may place the broker's or salesperson's license on an inactive status upon payment of the proper fee, and such license may be renewed biennially on or before December 31 of each even-numbered year.

[e)] (d) All fees and other moneys collected or received under this chapter shall be deposited by the director of commerce and consumer affairs with the director of finance to the credit of the general fund.

[f)] (e) The commission may refund any fee erroneously paid to it under this section when the commission deems it just and equitable.

[g)] (f) If beginning on July 1, 1987, the education fund balance at the end of any fiscal biennium exceeds \$1,200,000, there shall be a moratorium on such renewal contributions and the commission shall review and consider a reduction in the same amount in licensee fees.”

SECTION 3. Section 467-16, Hawaii Revised Statutes, is amended to read as follows:

“§467-16 Real estate recovery fund; use of fund; fees. The real estate commission shall establish and maintain a real estate recovery fund from which

any person aggrieved by an act, representation, transaction, or conduct of a duly licensed real estate broker, or real estate [salesman] salesperson, upon the grounds of fraud, misrepresentation, or deceit, may recover upon the commission's settlement of a claim or by order of the circuit court or district court of the county where the violation occurred, an amount of not more than \$25,000 per transaction for damages sustained by the fraud, misrepresentation, or deceit, including court costs and fees as set by law, and reasonable attorney fees as determined by the court.

When any person makes application for an original license to practice as a real estate broker or [salesman] salesperson the person shall pay, in addition to the person's original license fee, a recovery fund fee [of \$50] as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91 for deposit in the real estate recovery fund. If the commission does not issue the license, this fee shall be returned to the applicant."

SECTION 4. Section 467-17, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"**§467-17 Additional payments to fund.** (a) If the balance remaining in the real estate recovery fund is less than \$350,000, the department of commerce and consumer affairs shall assess every real estate licensee [a license fee of \$25] an additional payment to the recovery fund as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91 for deposit in the real estate recovery fund."

SECTION 5. Section 467-25.5, Hawaii Revised Statutes, is amended by amending subsections (c), (d), and (e) to read as follows:

"(c) The fees for [each original] a certificate of registration and renewal thereof for schools and instructors [prescribed by this section] shall be [as follows:

- (1) Schools, for real estate broker and real estate salesman certificate of registration, \$750;
- (2) Schools, for real estate broker or real estate salesman certificate of registration, \$500;
- (3) For each additional real estate broker or real estate salesman's school, \$250;
- (4) Schools, annual renewals; for each original applicant or initial licensee, \$150; for each additional course, \$100 plus \$1 for each certificate of completion to each student;
- (5) Instructors, certificate of registration, \$25;
- (6) Instructors, renewal of certificate of registration, \$25;
- (7) Specialized instructors, initial certificate of registration and renewal fee, \$25.] as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91.

(d) Examination fee for instructors requesting to be certificated if and when required [as prescribed by rules and regulations under this chapter shall be \$20.] shall be as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91.

(e) In the event a certificate of registration [lapses,] is forfeited, the certificate of registration may be reinstated upon payment of the renewal fee [plus amount of renewal fee.] that is immediately due and owing, past due renewal fees, and penalty fees as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91."

SECTION 6. Section 467-30, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

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"(b) Any sole proprietor, partnership, corporation, or other business entity who, in the operation of a condominium hotel engages in any activity set forth in the definitions of "real estate", "real estate broker", and "real estate [salesman] salesperson" in section 467-1 and who also is not a custodian or caretaker shall:

- (1) Obtain a license as a real estate broker in compliance with this chapter and the rules of the commission[, and];
- (2) Register with the real estate commission as a condominium operator and provide evidence of bonding to the real estate commission in an amount equal to \$500 multiplied by the aggregate number of units covered by all of the condominium hotel contracts; except that the minimum of the bond required by this paragraph shall not be less than \$20,000 nor greater than \$100,000. The bond shall protect the owners of the apartment whose apartments are used to provide customary hotel service[.]; and
- (3) Pay the department of commerce and consumer affairs a registration fee as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91."

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

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

(Approved June 1, 1988.)

Note

1. So in original.

ACT 146

S.B. NO. 2922

A Bill for an Act Relating to Uniform Controlled Substance.

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

SECTION 1. Section 712-1241, Hawaii Revised Statutes, is amended to read as follows:

"§712-1241 Promoting a dangerous drug in the first degree. (1) A person commits the offense of promoting a dangerous drug in the first degree if he knowingly:

- (a) Possesses one or more preparations, compounds, mixtures, or substances of an aggregate weight of:
 - (i) One ounce or more, containing methamphetamine,¹ heroin, morphine, or cocaine or any of their respective salts[;], isomers, and salts of isomers; or
 - (ii) Two ounces or more, containing one or more of any of the other dangerous drugs; or
- (b) Distributes:
 - (i) Fifty or more capsules, tablets, ampules, dosage units, or syrettes containing one or more dangerous drugs; or
 - (ii) One or more preparations, compounds, mixtures, or substances of an aggregate weight of:

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- (A) One-eighth ounce or more, containing methamphetamine,¹ heroin, morphine, or cocaine or any of their respective salts[;], isomers, and salts of isomers; or
 - (B) One-half ounce or more, containing any other dangerous drug; or
- (c) Distributes any dangerous drug in any amount to a minor.
- (2) Promoting a dangerous drug in the first degree is a class A felony."

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

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

(Approved June 1, 1988.)

Note

1. Comma should be underscored.

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S.B. NO. 2980

A Bill for an Act Relating to Corrections.

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

SECTION 1. Section 353-64, Hawaii Revised Statutes, is amended to read as follows:

"§353-64 [Prisoners] Committed persons paroled. Any [prisoner] committed person confined in any state [prison] correctional facility in execution of any sentence imposed upon the [prisoner,] committed person, except in cases where the penalty of life imprisonment not subject to parole has been imposed, shall be subject to parole in manner and form as set forth in this part[.]; provided that to be eligible for parole, the committed person, if the person is determined by the department to be suitable for participation, must have been a participant in an academic, vocational education, or prison industry program authorized by the department and must have been involved in or completed the program to the satisfaction of the department; and provided further that this precondition for parole shall not apply if the committed person is in a correctional facility where academic, vocational education, and prison industry programs or facilities are not available."

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

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

(Approved June 1, 1988.)

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S.B. NO. 3204

A Bill for an Act Relating to Environmental Emergency Response.

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

SECTION 1. The legislature finds that the capacity to respond to environ-

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mental emergencies or accidents in a swift and timely manner is an important element in the effectiveness of any environmental protection program. It is the purpose of this Act to establish an environmental emergency response revolving fund within the department of health to provide the department with the resources and authority to: (1) perform emergency removal actions of hazardous substances; (2) require responsible parties to perform necessary removal or remedial actions; (3) recover costs incurred by the department in the course of performing any necessary actions; and (4) develop a contingency plan for the cleanup of hazardous sites in the State.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER ENVIRONMENTAL EMERGENCY RESPONSE"

§ -1 Definitions. As used in this chapter, unless the context otherwise requires:

“Department” means the department of health.

“Director” means the director of health.

“Fund” means the environmental emergency response revolving fund.

“Hazardous substance” means any substance or mixture of substances, including but not limited to feedstock materials, products, or wastes, which, because of their quantity, concentration, or physical, chemical, or infectious characteristics, may:

- (1) Cause or significantly contribute to an increase in serious irreversible or incapacitating reversible illness; or
- (2) Pose a substantial present or potential hazard to human health, to property, or to the environment when improperly stored, transported, released, or otherwise managed.

“Release” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of any hazardous substance into the environment; but does not include any of the following:

- (1) Any release which results in exposure of persons solely within a workplace, with respect to a claim which such exposed persons may assert against their employer;
- (2) Emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, or vessel; or
- (3) Release of source, byproduct, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954 (42 U.S.C. §2011), if such release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under 42 U.S.C. §2210.

“Remedy” means those actions consistent with permanent correction taken instead of or in addition to removal actions in the event of a release or threatened release of a hazardous substance into the environment, to prevent or minimize the release of hazardous substances so that they do not migrate to cause substantial danger to present or future public health or welfare of the environment.

- (1) The term includes, but is not limited to, such actions at the location of the release as storage, confinement, perimeter protection using dikes, trenches, or ditches, clay cover, neutralization, cleanup of released hazardous substances or contaminated materials, recycling or reuse, diversion, destruction, segregation of reactive wastes, dredging or excavations, repair or replacement of leaking containers, collection of leachate and runoff, onsite treatment or incineration, provision of al-

ternative water supplies, and any monitoring reasonably required to assure that such actions protect the public health and welfare and the environment.

- (2) The term includes the costs of permanent relocation of residents and businesses and community facilities where the director determines that, alone or in combination with other measures, such relocation is more cost-effective than and environmentally preferable to the transportation, storage, treatment, destruction, or secure disposition offsite of hazardous substances, or may otherwise be necessary to protect the public health or welfare.
- (3) The term does not include the offsite transport of hazardous substances, or the storage, treatment, destruction, or secure disposition offsite of such hazardous substances or contaminated materials unless the director determines that such actions are more cost-effective than other remedial actions; will create new capacity to manage hazardous substances in addition to those located at the affected facility; or are necessary to protect public health or welfare of the environment from a present or potential risk which may be created by further exposure to the continued presence of such substances or materials.

“Remove” means the cleanup of released hazardous substances from the environment, such actions as may be necessary to take in the event of the threat of release of hazardous substances into the environment, such actions as may be necessary to monitor, assess, and evaluate the release or threat of release of hazardous substances, the disposal of removed material, or the taking of such other actions as may be necessary to prevent, minimize, or mitigate damage to the public health or welfare or to the environment, which may otherwise result from a release or threat of release. The term includes, in addition, without being limited to, security fencing or other measures to limit access, provision of alternative water supplies, temporary evacuation and housing of threatened individuals not otherwise provided for, and any emergency assistance.

§ -2 Environmental emergency response revolving fund. (a) There is created an environmental emergency response revolving fund within the department which shall consist of moneys appropriated to the fund by the legislature, moneys paid to the fund as a result of departmental compliance proceedings, moneys paid to the fund pursuant to court-ordered awards or judgments, moneys paid to the fund in court-approved or out-of-court settlements, and moneys allotted to the fund from other sources.

(b) Moneys from the fund shall be expended by the department for emergency response actions consistent with this chapter.

§ -3 Reportable quantities, duty to report. (a) The director shall adopt rules pursuant to chapter 91 designating as hazardous substances such elements, compounds, mixtures, solutions, substances, and wastes which, when released into the environment, may present substantial danger to the public or the environment, and shall adopt rules establishing the quantities of such hazardous substances which, when released, shall be reported pursuant to this chapter. The director, as a minimum, shall adopt hazardous substances and reportable quantities as designated by the U.S. Environmental Protection Agency pursuant to parts 117 and 302 of Title 40 of the Code of Federal Regulations, and by the U.S. Department of Transportation pursuant to parts 171 and 172 of Title 49 of the Code of Federal Regulations. The designated quantity released of any hazardous substance shall be a reportable quantity, regardless of the medium into which the hazardous substance is released.

(b) Any person who fails to report a hazardous substance release to the

department within twenty-four hours of knowledge of the release shall be subject to a fine in an amount not to exceed \$10,000 for each day of failure to report.

§ -4 Response authorities; uses of fund. (a) Whenever the director determines that there may be an imminent or substantial endangerment to the public health or welfare or to the environment, because of a release or a threatened release of a hazardous substance, the director may:

- (1) Issue an administrative order to any responsible party or parties to take appropriate removal or remedial action necessary to protect the public health and safety and the environment;
 - (2) Undertake those investigations, monitoring, surveys, testing, and other information gathering necessary to identify the existence, source, nature, and extent of the hazardous substances involved and the extent of danger to the public health or environment;
 - (3) Perform any necessary removal actions so as to abate any immediate danger to the public and the environment; and
 - (4) Contract the services of appropriate organizations to perform the actions set forth in paragraphs (2) and (3).
- (b) Moneys in the fund may be expended by the director for any of the following purposes:
- (1) Payment of all costs of removal actions incurred by the State or the counties in response to a release or threatened release of a hazardous substance; or
 - (2) Payment for the State's share of a removal or remedial action pursuant to section 104(c)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §9604(c)(3)).
- (c) No response actions taken pursuant to this chapter by the department shall duplicate federal response actions.

§ -5 Recovery of costs. (a) Any costs incurred and payable from the fund shall be recovered by the attorney general, upon the request of the department, from the liable person or persons. The amount of any costs which may be recovered pursuant to this section for a remedial or removal action paid from the fund shall include the amount paid from the fund and legal interest.

(b) Moneys recovered by the attorney general pursuant to this section shall be deposited into the account of the fund.

§ -6 Liability. (a) Notwithstanding any other provision or rule of law, and subject only to the defenses set forth in subsection (b):

- (1) The owner or operator or both of a facility;
- (2) Any person who at the time of disposal of any hazardous substance owned or operated any facility at which such hazardous substances were disposed of;
- (3) Any person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such person, by any other party or entity, at any facility owned or operated by another party or entity and containing such hazardous substances; or
- (4) Any person who accepts or accepted any hazardous substances for transport to disposal or treatment facilities or sites selected by such person, from which there is a release, or a threatened release, which causes the incurrence of response costs of a hazardous substance; shall be liable for all costs of removal or remedial action incurred by the State, any

other necessary costs of response incurred by any other person consistent with this chapter, and damages for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss resulting from such release.

(b) There shall be no liability under subsection (a) for a defendant otherwise liable who can establish by a preponderance of the evidence that the release or threat of release of hazardous substance and the damages resulting therefrom were caused solely by:

- (1) Any unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable and irresistible character, the effect of which could not have been prevented or avoided by the exercise of due care or foresight;
- (2) An act of war;
- (3) An act or omission of a third party other than an employee or agent of the defendant, or than one whose act or omission occurs in connection with a contractual relationship, existing directly or indirectly, with the defendant, if the defendant establishes by a preponderance of the evidence that due care was exercised with respect to the hazardous substance concerned, taking into consideration the characteristics of such hazardous substance, in light of all relevant facts and circumstances; and precautions were taken against foreseeable acts or omissions of any such third party and the consequences that could foreseeably result from such acts or omissions; or
- (4) Any combination of the foregoing paragraphs.

(c) No person shall be liable under this chapter for damages as a result of actions taken or omitted in the course of rendering care, assistance, or advice in accordance with this chapter or at the direction of an on-scene coordinator, with respect to an incident creating a danger to public health or welfare or the environment as a result of any release of a hazardous substance or the threat thereof. This subsection shall not preclude liability for damages as the result of gross negligence or intentional misconduct on the part of such person.

(d) No indemnification, hold harmless, or similar agreement or conveyances shall be effective to transfer from the owner or operator of any vessel or facility or from any person who may be liable for a release or threat of release under this section, to any other person, the liability imposed under this section. Nothing in this subsection shall bar any agreement to insure, hold harmless, or indemnify a party to such agreement for any liability under this section. Nothing in this chapter shall bar a cause of action that an owner or operator or any other person subject to liability under this section, or a guarantor, has or would have, by reason of subrogation or otherwise against any person.

(e) Any person who is liable for a release, or threat of a release, of hazardous substances and who fails, without sufficient cause, as determined by the director, to properly provide removal or remedial action pursuant to an administrative order issued by the director, shall be liable to the department for punitive damage up to three times the amount of any costs incurred by the fund pursuant to this chapter as a result of the failure to perform the actions specified in the order.

§ -7 State contingency plan. (a) The department shall adopt, by rules, the criteria for the selection and for the priority ranking of sites pursuant to subsection (b) for removal and remedial action under this chapter, and shall adopt criteria for the ranking of sites in order of priority. The criteria shall take into account the pertinent factors relating to the public health and the environment, which shall include, but are not limited to, potential hazards to public health and the environment, the risk of fire or explosion, toxic hazards, the extent to which the deferral

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of remedial action will result, or is likely to result, in a rapid increase in cost or in a hazard to human health and the environment. The criteria may include a minimum hazard threshold below which sites shall not be listed pursuant to this section.

(b) The department shall publish and revise, at least annually, a listing of the sites subject to this chapter. The sites shall be categorized and placed on one of the following lists:

- (1) A list of the hazardous substance release sites for which the department has identified a responsible party, and the responsible party is in compliance, as determined by the department, with an order issued, or an enforceable agreement entered into.
- (2) A list of the hazardous substance release sites for which all of the following apply:
 - (A) The department has not been able to identify a responsible party or the responsible party is not in compliance, as determined by the department, with an order issued or an enforceable agreement entered into;
 - (B) The nature and extent of the hazardous substance release at the site has not been adequately characterized by the responsible party or the department.

(c) Funds appropriated to the department for removal action shall be expended in conformance with the priority ranking of sites, as established on the list of sites specified in subsection (b), except that funds appropriated for removal action may be expended without conforming to the priority ranking if any of the following apply:

- (1) The funds are necessary to monitor removal actions conducted by private parties at sites listed pursuant to subsection (b)(1);
- (2) State funds are necessary for the State's share of a removal or remedial action pursuant to section 104(c)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §9604(c)(3));
- (3) The funds are used to assess, evaluate, and characterize the nature and extent of a hazardous substance release on sites listed pursuant to this section; or
- (4) The director determines that immediate removal action at a site is necessary because there may be an imminent and substantial endangerment to the public health or the environment."

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 1988-1989, to be paid into the environmental emergency response revolving fund created by this Act.

SECTION 4. 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 1988-1989, to enable the department of health to employ one full-time staff member to provide the planning, engineering, clerical, and field investigatory support necessary to implement the program established by this Act.

SECTION 5. All sums appropriated by this Act shall be expended by the department of health.

SECTION 6. This Act shall take effect on July 1, 1988.

(Approved June 1, 1988.)

ACT 149

S.B. NO. 3210

A Bill for an Act Relating to Vital Statistics.

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

SECTION 1. Section 338-5, Hawaii Revised Statutes, is amended to read as follows:

“§338-5 Compulsory registration of births. Within the time prescribed by the department of health, a certificate of every birth shall be substantially completed and filed with the local agent of the department in the district in which the birth occurred, by the administrator or designated representative of the birthing facility, or physician, or midwife, or other legally authorized person in attendance at the birth; or if not so attended, by one of the parents.

The birth facility shall make available to the department appropriate medical records for the purpose of monitoring compliance with the provisions of this chapter.”

SECTION 2. New statutory material is underscored.

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

(Approved June 1, 1988.)

ACT 150

S.B. NO. 3229

A Bill for an Act Relating to Public Highways.

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

SECTION 1. Section 264-1, Hawaii Revised Statutes, is amended to read as follows:

“§264-1 Public highways[, defined, etc.] and trails. (a) All roads, alleys, streets, ways, lanes, [trails,] bikeways, and bridges in the State, opened, laid out, or built by the [State or any political subdivision thereof,] government are declared to be public highways. Public highways are of two types:

- (1) State [or federal-aid] highways, which are all those under the jurisdiction of the department of transportation; and
- (2) County highways, which are all other public highways.

(b) All trails, and other nonvehicular rights-of-way in the State declared to be public rights-of-ways by the highways act of 1892, or opened, laid out, or built by the government or otherwise created or vested as nonvehicular public rights-of-way at any time thereafter, or in the future, are declared to be public trails. A public trail is under the jurisdiction of the state board of land and natural resources unless it was created by or dedicated to a particular county, in which case it shall be under the jurisdiction of that county.

(c) All roads, alleys, streets, ways, lanes, trails, bikeways, and bridges in the State, opened, laid out, or built by private parties and dedicated or surrendered to the public use, are declared to be public highways[.] or public trails as follows:

- (1) Dedication of public highways or trails shall be by deed of conveyance naming the State as grantee in the case of a state highway or trail and naming the county as grantee in the case of a county highway[.] or

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trail. The deed of conveyance shall be delivered to and accepted by the director of transportation in the case of a state highway [and] or the board of land and natural resources in the case of a state trail. In the case of a county highway or county trail, the deed shall be delivered to and accepted by the legislative body of a county [in the case of a county highway].

- (2) Surrender of public highways or trails shall be deemed to have taken place if no act of ownership by the owner of the road, alley, street, bikeway, way, lane, trail, or bridge has been exercised for five years and when, in the case of a county highway, in addition thereto, the legislative body of the county has, thereafter, by a resolution, adopted the same as a county highway[.] or trail.

In every case where the road, alley, street, bikeway, way, lane, trail, bridge, or highway is constructed and completed as required by any ordinance of the county or any rule, regulation, or resolution thereof having the effect of law, the legislative body of the county shall accept the dedication or surrender of the same without exercise of discretion.

(d) All county public highways and trails once established shall continue until vacated, closed, abandoned, or discontinued by a resolution of the legislative body of the county wherein the county highway or trail lies. All state trails once established shall continue until lawfully disposed of pursuant to the requirements of chapter 171."

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

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

(Approved June 1, 1988.)

ACT 151

H.B. NO. 2179

A Bill for an Act Making an Appropriation for Nori Research.

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

SECTION 1. The purpose of this Act is to diversify the economic base of this State by encouraging aquaculture development in the State of Hawaii.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$115,000, or so much thereof as may be necessary for fiscal year 1988-1989, to conduct research on nori (Porphyra sp.) and other economically important marine species at the natural energy laboratory of Hawaii that will contribute towards the development of commercial nori culture techniques in Hawaii.

SECTION 3. The sum appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 1988.

(Approved June 1, 1988.)

ACT 152

H.B. NO. 3441

A Bill for an Act Relating to the Capital Loan Program.

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

SECTION 1. The purpose of this Act is to amend the capital loan program to delete the requirement of having to be turned down by commercial lenders on participation loans and to allow the interest rate to fluctuate.

SECTION 2. Section 210-6, Hawaii Revised Statutes, is amended to read as follows:

“§210-6 Direct loans, terms, and restrictions. The department of business and economic development may make loans to small business concerns for the financing of plant construction, conversion, expansion, the acquisition of land for expansion, the acquisition of equipment, machinery, supplies, or materials, or for the supplying of working capital. The loans may be made in conjunction with loans made by other financial institutions, including the SBA. Where the loans made by the department are secured, the security may be subordinated to the loans made by other financial institutions, when the subordination is required in order to obtain loans from such institutions. The necessity for and the extent of security required in any loan shall be determined by the director of business and economic development.

The foregoing powers shall be subject, however, to the following restrictions and limitations:

- (1) No loans shall be granted unless financial assistance is not available to the applicant. The condition may be waived by the director for participation loans with a private financial institution.
- (2) The amount of the loan or loans to any one applicant at any one time shall in no case exceed a total of \$1,000,000.
- (3) No loan shall be made for a term exceeding twenty years.
- (4) Each loan shall bear simple interest at [the] a rate [of seven and one-half per cent a year.] one per cent below the prime rate or at a rate of seven and one-half per cent a year, whichever is lower. For purposes of this paragraph, the prime rate shall be determined on January 1 and July 1 of each year, and shall be the rate charged by the two largest banks in the State of Hawaii identified by the department of commerce and consumer affairs. Should there be a difference in rate charged by the institutions, the lower of the two shall be utilized.
- (5) The commencement date for the repayment of the first installment on the principal of each loan may be deferred by the director, but in no event shall such initial payment be deferred in excess of five years.
- (6) The payment of interest on the principal of a loan may be deferred by the director, but in no event shall interest payments be deferred in excess of two years from the date of issuance of the loan.”

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

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

(Approved June 1, 1988.)

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H.B. NO. 3561

A Bill for an Act Relating to the Housing Finance and Development Corporation.

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

SECTION 1. Section 201E-32, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The corporation may:

- (1) Borrow money or accept grants from the federal government for any housing project which the [authority] corporation is authorized to undertake;
- (2) Take over any land acquired by the federal government for the construction of a housing project;
- (3) Procure insurance or guarantees from the federal government of the payment of any debts or parts thereof secured by mortgages made or held by the corporation on any property included in any housing project; and
- (4) Comply with any conditions required by the federal government in any contract for financial assistance.”

SECTION 2. Subparts II.C. and III.D. of Chapter 201E, Hawaii Revised Statutes, are amended by substituting the word “corporation” wherever the words “Hawaii housing authority” and “authority” appear, unless the term “authority” refers to other than the Hawaii housing authority.

SECTION 3. Section 237-29, Hawaii Revised Statutes, is amended to read as follows:

“§237-29 Exemptions for certified low and moderate income housing.

(a) All gross income received by any qualified person or firm for the planning, design, financing, construction, sale, or lease in the State of a housing project which has been certified under section [359G-15] 201E-205 shall be exempt from general excise taxes.

(b) All gross income received by a nonprofit or a limited distribution mortgagor for a low and moderate income housing project certified under section [359G-15] 201E-205 shall be exempt from general excise taxes.

(c) All claims for exemption under this section shall be certified first by the Hawaii housing authority¹ and forwarded to the director of taxation, except that any project previously granted an exemption need not reapply for an exemption until there is a change in use or ownership of the project.

(d) (c) The director of taxation and the [Hawaii housing authority] housing finance and development corporation shall adopt rules pursuant to chapter 91 for the purpose of this section, including any time limitation for such exemptions.”

SECTION 4. Section 514A-14.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) This section does not apply:

- (1) To apartments developed under chapters 356, 359, and [359G] 201E; and
- (2) To apartments in a mixed-use project developed under chapter 206E that has a shared parking program approved by the Hawaii community development authority; provided that such a program shall require the

availability of the use of not less than one parking space per apartment.”

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

SECTION 6. This Act shall take effect upon its approval.

(Approved June 1, 1988.)

Note

1. So in original.

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H.B. NO. 3568

A Bill for an Act Relating to Administrative Process to Establish and Enforce Child Support Obligations.

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

SECTION 1. Findings and purpose. The legislature finds that the establishment of an alternative process to establish, modify and enforce support obligations owed to dependent children by parents is a matter of compelling state interest. A process designed to expedite the establishment and enforcement of such obligations, and to promote consistency and equity in obligation amounts, while guaranteeing all affected parties a right to a full and fair hearing, will bring the State into compliance with federal statutory and regulatory requirements and best serve the needs of the people. Accordingly, the purpose of this Act is to establish an administrative process to establish and enforce child support obligations, and to authorize the department of the attorney general to use the process on all types of cases for which the department has responsibility under title IV-D of the Social Security Act, including but not limited to welfare and non-welfare cases in which the responsible parent is subject to the department's jurisdiction, regardless of the residence of the children for whom support is sought. These remedies are in addition to existing law.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER
ADMINISTRATIVE PROCESS FOR CHILD SUPPORT
ENFORCEMENT”**

§ -1 Definitions. As used this chapter, unless the context otherwise requires:
“Agency” means the child support enforcement agency established by section 576D-2.

“Arrearage” means past due child support under an existing court order.

“Court” means the family courts of this State and, when the context requires, a court or agency of any other state having jurisdiction to establish, modify and enforce support obligations.

“Court order” means any judgment, decree, or order of a court or agency that requires the payment of a set or determinable amount of child support, or child support and spousal support.

“Department” means the department of the attorney general.

“Debt” means the public assistance debt pursuant to section 346-37.1.

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“Employee” means any person working for another for hire, including but not limited to, an individual employed in domestic service or at a family’s or person’s home or any individual employed by the individual’s parent or spouse, or independent contractors.

“Employer” means any person who uses or engages in the services of any person in exchange for the payment of wages or other means of exchange, including the United States government, the State, and any political subdivision thereof.

“Obligee” means any person to whom payments are required to be made under the terms of a court order for child support, or child support and spousal support.

“Public assistance” means any cash paid or medical assistance provided by the department of human services to or for the benefit of any dependent child, including amounts paid to or on behalf of the child’s custodian.

“Responsible parent” means any person upon whom the law of this State places a duty of support.

“Support order” means an obligation determined by a court or duly authorized administrative agency, for the maintenance of a dependent child, which is owed to or on behalf of the child, or to the parent or custodian with whom the child is living.

§ -2 Attorney general; powers. Notwithstanding any other law to the contrary, the attorney general, through the child support enforcement agency, shall have concurrent jurisdiction with the court in all proceedings in which a support obligation is established, modified or enforced, including, but not limited to proceedings under chapters 571, 584 and 576, the Uniform Reciprocal Enforcement of Support Act. The attorney general, through the child support enforcement agency, may establish, modify and enforce child support obligations using the administrative process provided in this chapter on all cases for which the department has a responsibility under Title IV-D of the Social Security Act, including but not limited to welfare and non-welfare cases in which the responsible parent is subject to the department’s jurisdiction, regardless of the residence of the children for whom support is sought. These powers shall include, but not be limited to, the power to:

- (1) Conduct investigations into the ability of responsible parents to pay support and into nonpayment of support;
- (2) Administer oaths, issue subpoenas, and require production of books, accounts, documents, and evidence;
- (3) Establish, modify or enforce a support order;
- (4) Determine that a responsible parent has not complied with a court order;
- (5) Establish arrearage;
- (6) Establish a public assistance debt under section 346-37.1;
- (7) Order and enforce assignment of future income under section -16, and chapter 571, and;
- (8) Exercise the powers and authority described in this section, notwithstanding the existence of a prior court order issued by another state or foreign jurisdiction, except as modified or limited by this chapter.

§ -3 Jurisdiction. Notwithstanding any other law to the contrary, the agency shall have concurrent jurisdiction with the court over:

(a) any person found within the State of Hawaii against whom a child support obligation may be established, modified or enforced, and;

(b) any person without the State who has maintained a domicile in this State while subject to a marital or family relationship out of which arises a claim for child support, including any person against whom a Hawaii court has entered a support order.

§ -4 Service of process. Service of the notice provided in section -5 shall be by personal service or certified mail, return receipt requested.

§ -5 Commencement of administrative proceedings; notice. The agency shall serve a notice upon the responsible parent not less than thirty days prior to commencing administrative proceedings to make an order under section -11. The notice shall contain:

- (1) A copy of the order proposed to be entered by the agency;
- (2) A statement that the responsible parent is entitled to an administrative hearing before an impartial hearings officer to contest the entry of the order together with an explanation of the procedure for requesting a hearing;
- (3) A statement of rights at the hearing together with an explanation of defenses or objections which may be considered by the hearings officer;
- (4) A statement that the property of the responsible parent may be seized or that the income of the responsible parent may be withheld for payment of support; and
- (5) A statement that information relating to the responsible parent's non-payment of support may be made available to credit-reporting agencies.

§ -6 Request for hearing; how made. Any responsible parent who is aggrieved by the proposed order of the agency may obtain a hearing by sending a written request for hearing to the agency office that issued the notice pursuant to section -5.

§ -7 Failure to request hearing; effect. If the responsible parent fails to request a hearing within twenty days of receipt of the notice issued pursuant to section -5, the agency shall adopt the proposed order as the final order in the action. Such orders shall be final decisions of the agency, entitled to judicial review as provided in section -13.

§ -8 Action by agency upon request for hearing. Upon receipt of a hearing request, the agency shall contact the responsible parent and attempt to reach an agreed disposition. If no agreed disposition can be obtained, the matter shall be referred to a hearings officer for contested case proceedings.

§ -9 Hearings in contested cases. Hearings in contested cases shall be conducted in accordance with chapter 91 and shall be presided over by an administrative hearings officer appointed by the attorney general. The attorney general may adopt such administrative rules pursuant to chapter 91, as may be necessary to carry out the provisions of this section. In any hearing conducted under this section, the responsible parent shall have the right to confront and cross-examine witnesses, to present witnesses and evidence, to be represented by counsel or other person, and to be notified of these rights in writing. Hearings may be conducted by telephone or other electronic telecommunications methods upon the consent of all parties to the hearing.

§ -10 Hearings officers. The attorney general shall appoint and commission, pursuant to chapters 76 and 77, such hearings officers as may be necessary to carry out the purposes of this chapter. Hearings officers shall exercise all of the powers granted to the attorney general under this chapter, but shall not be considered deputy attorneys general and shall not exercise the powers or discharge the duties conferred upon the attorney general or the attorney general's deputies by chapter 28. In exercising the powers conferred upon the attorney general in section -2, the hearings officers shall have the authority to:

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- (1) Enter a default order against a responsible parent who fails to appear at the time and place of the hearing, upon a showing of proper notice to that parent;
- (2) Accept a voluntary acknowledgment of support liability or stipulated agreement setting the amount of support to be paid after consideration of the guidelines established under section 576D-7;
- (3) Receive testimony from the parties to the hearing and establish a record; and
- (4) Evaluate the testimony and other evidence received at the hearing and make specific findings of fact and conclusions of law.

§ -11 Agency orders; required findings. Every order entered by the agency pursuant to this chapter shall specify, at a minimum, the following:

- (1) The amount of periodic support to be paid by the responsible parent, with directions as to the manner of payment;
- (2) The amount of child support arrears, if any, that have accrued under an existing court order;
- (3) The amount of public assistance debt, if any, accrued under section 346-37.1;
- (4) The amount of the periodic payment to be made in liquidation of such public assistance debt, if any, or child support arrears, if any;
- (5) The extent of the responsible parent's responsibility to provide medical insurance coverage for the dependent child involved in the case, or otherwise to pay the reasonable and necessary medical expenses of the dependent child;
- (6) The name of the person or agency with custody of the dependent child for whom support is sought, except where a court has previously directed that such information be withheld, and the name and birth date of such child;
- (7) A statement that the property of the responsible parent is subject to collection action, including but not limited to, withholding of income, unemployment insurance benefits, workers' compensation, and retirement benefits, seizure of property, disclosure of information relating to the responsible parent's debt to consumer credit reporting agencies, and federal and state tax refund interception;
- (8) A statement that violations of the agency's order are punishable as contempt of court; and
- (9) A statement notifying the responsible parent of the right to judicial review of agency orders, and the procedure for obtaining such review.

§ -12 Agency orders; force and effect. (a) A true copy of the agency's order, along with a true copy of the return of service, shall be filed by the agency in the office of the clerk of the family court in the first circuit. Upon filing, the order shall have all the force and effect of a final order or decree of the circuit court.

(b) Orders for reimbursement of public assistance shall be considered child support arrearages for purposes of nondischargeability in bankruptcy.

(c) The agency order shall remain in effect until superseded by a subsequent order entered by the agency or by the court, or until the responsible parent's obligation to provide support for the dependent child and to reimburse the State for public assistance paid on behalf of the child, has ceased to exist.

(d) A copy of the order shall be served by regular mail upon the responsible parent. A copy of the order shall also be sent to the person having custody of the dependent child.

§ -13 Appeal to the family court. Any responsible parent aggrieved by a final order entered by the agency pursuant to this chapter may obtain judicial review under chapter 91 by filing a notice of appeal to the senior family court judge in the circuit in which the person resides within thirty days of the filing of the order. The senior judge may assign the hearing and disposition of such appeals to any district judge of the family court who shall exercise all of the powers conferred upon a circuit court by section 91-14. The filing of a notice of appeal does not stay enforcement of the agency order.

§ -14 Modification of agency orders. (a) After the entry of an order by the agency under this chapter, the responsible parent, the agency, or the person having custody of the involved child may file a request for modification with the agency. Such request shall be in writing, shall set forth the reasons for modification, including the change of circumstances since the date of the entry of the order, and shall state the address of the requesting party. The request shall be served by the requesting party, by personal service or by certified mail, return receipt requested, upon all parties to the original administrative proceeding, and to the person presently having custody of the dependent child. The agency shall thereupon schedule and conduct a hearing on the request.

(b) Only payments accruing subsequent to service of the request on all parties may be modified, and only upon a showing of a substantial and material change of circumstances. The agency shall not be stayed from enforcement of the existing order pending the outcome of the hearing on the request to modify.

§ -15 Guidelines to be followed. When the agency establishes or modifies the amount of child support required to be paid by a responsible parent, the agency shall use the guidelines established under section 576D-7, except when exceptional circumstances warrant departure.

§ -16 Income withholding. (a) Whenever any order is entered by the agency establishing, modifying or enforcing support, establishing an arrearage that has accrued under a previous judicial or administrative order for support, or establishing a public assistance debt, the agency shall concurrently issue an order which shall operate as an assignment to the agency for the benefit of the child of such amounts at such times as may be specified in the order, from the responsible parent's income due or to become due in the future from the responsible parent's employer, or successor employers, until further order of the agency. A copy of the income withholding order shall be filed in the circuit court along with the copy of the support order as provided in section -12.

(b) The income withholding order shall be effective immediately after service upon an employer of a true copy of the order, which service may be effected by certified or registered mail or by personal delivery. Thereafter, the employer shall for each pay period, withhold from the income due to the responsible parent from the employer, and not required to be withheld by any other provision of federal or state law, and transmit to the agency, as much as may remain payable to the responsible parent for such pay period up to the amount specified in the order as being payable during the same period. The employer shall immediately inform the agency of any change that would affect the income withholding order or the disbursement thereof.

(c) Compliance by an employer with the income withholding order shall operate as a discharge of the employer's liability to the responsible parent for that portion of the responsible parent's earnings withheld and transmitted to the agency, whether or not the employer has withheld the correct amount. For each payment made pursuant to an income withholding order, the employer may deduct and retain

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as an administrative fee an additional amount of \$2 from the income owed to the responsible parent. Any income withholding order shall have priority as against any garnishment, attachment, execution, or other income withholding order, or any other order, unless otherwise ordered by the agency, and shall not be subject to the exemptions or restrictions contained in part III of chapter 651 and in chapters 652 and 653. An employer who fails to comply with an order entered by the agency under this section shall be liable to the obligee or the agency, for the full amount of all sums ordered to be withheld and transmitted. An employer receiving an income withholding order shall transmit amounts withheld to the agency within ten days after the responsible parent is paid. The employer shall begin withholding no later than the first pay period commencing fourteen days after receipt of the order by the employer. An employer who is required to withhold amounts from the earnings or income of more than one employee may remit to the agency a sum total of all such amounts in one check with a listing of the amounts applicable to each employee.

(d) An income withholding order shall remain in effect until terminated when appropriate by the agency. Payment by the responsible parent of any delinquency shall not in and of itself warrant termination of the income withholding order. The agency shall promptly refund any amount withheld in error to the responsible parent.

(e) It shall be unlawful for any employer to refuse to hire a prospective employee, to discharge an employee, or to take any other disciplinary action against an employee, based in whole or in part upon an order authorized by this section. Any employer violating this section shall be guilty of a misdemeanor and shall be punished under section 710-1077(1)(g).

(f) Notwithstanding any other provision of law, for the purposes of this section, the term "income" shall include, without limitation, salaries, wages, earnings, workers' compensation, disability benefits, commissions, independent contractor income, and any other entitlement to money including moneys payable as a pension or as an annuity or retirement or disability or death or other benefit, or as a return of contributions and interest thereon from the United States government, or from the State or political subdivision thereof, or from any retirement, disability, or annuity system established by any of them pursuant to statute.

(g) Any responsible parent may request withholding of the parent's income prior to entry of an order by the agency. The employer shall comply with that request as if so ordered by the agency under this section.

(h) The agency may allocate amounts withheld from the income of one responsible parent among more than one obligee. If concurrent orders would cause the amounts withheld from the responsible parent's income to exceed applicable wage withholding limitations, the current support obligation of the first served order shall be satisfied first, and then current obligations of subsequently served orders shall be satisfied in the order of service. Thereafter, arrearages due under the income withholding orders shall be satisfied in the order of service, up to the applicable limitation.

§ -17 Medical support enforcement. (a) Where the responsible parent is ordered by the agency to provide medical insurance coverage for the dependent child, the agency shall, in addition to any income withholding order issued pursuant to section -16, forward a copy of the support order, by registered or certified mail or by personal service, to the responsible parent's employer or union when the responsible parent fails to provide written proof to the agency, within thirty days of receipt of the agency's order, that the insurance has been obtained or that application for insurance coverage has been made.

(b) Upon receipt of the copy of the order, or upon request of the responsible

parent pursuant to the order, the employer or union shall enroll the dependent child as a beneficiary in the group medical insurance plan and withhold any required premium from the responsible parent's income. If more than one plan is offered by the employer or union, the child shall be enrolled in the plan in which the responsible parent is enrolled or the least costly plan otherwise available to the responsible parent that is comparable to the plan in which the responsible parent is enrolled.

(c) A dependent child whom a responsible parent is required to cover as a beneficiary pursuant to this section is eligible for insurance coverage as a dependent of the responsible parent until the duty of support expires or until further order of the agency or a court of competent jurisdiction. The insurance coverage shall not be terminated prior to entry of such an order relieving the responsible parent of the duty to provide insurance coverage.

(d) The signature of the custodial parent of the insured dependent child is a valid authorization to the insurer for purposes of processing an insurance reimbursement payment to the provider of medical services. When an order for dependent insurance coverage is in effect and the responsible parent's employment is terminated, or the insurance coverage is terminated, the insurer shall notify the agency within ten days of the termination date with notice of conversion privileges, if any.

(e) Notwithstanding any other law to the contrary, when an order for insurance coverage is in effect, the responsible parent's employer or union shall release to the agency, upon request, information on the dependent coverage available to the responsible parent, including the name of the insurer.

(f) Any responsible parent who fails to comply with an order entered by the agency requiring the maintenance of insurance coverage for the dependent child shall be liable for any medical expenses incurred by the obligee or the State after the effective date of the order.”

SECTION 3. Section 571-14, Hawaii Revised Statutes is amended to read as follows:

“§571-14 Jurisdiction; adults. The court shall have exclusive original jurisdiction:

- (1) To try any offense committed against a child by the child's parent or guardian or by any other person having the child's legal or physical custody, and any violation of section 707-726, 707-727, 709-902, 709-903, 709-904, 709-905, 709-906, or 298-12, whether or not included in other provisions of this paragraph or paragraph (2).
- (2) To try any adult charged with:
 - (A) Deserting, abandoning, or failing to provide support for any person in violation of law;
 - (B) An offense, other than a felony, against the person of the defendant's husband or wife;
 - (C) Any violation of a domestic abuse protective order issued pursuant to chapter 586; or
 - (D) Any violation of an order issued by a family court judge.

In any case within paragraph (1) or (2) of this section the court may, in its discretion, waive its jurisdiction over the offense charged.

- (3) In all proceedings under chapter 580, and in all proceedings under chapter 584.
- (4) In proceedings under chapter 575, the Uniform Deserter and Non-support Act, and under chapter 576, the Uniform Reciprocal Enforcement of Support Act.

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- (5) For commitment of an adult alleged to be mentally defective or mentally ill.
- (6) In all proceedings for support between parent and child or between husband and wife, and in all proceedings to appoint a guardian of the person of an adult.
- (7) In all proceedings for waiver of jurisdiction over an adult who was a child at the time of an alleged criminal act as provided in section 571-22.
- (8) In all proceedings under chapter 586, Domestic Abuse Protective Orders.

(9) In all proceedings to appoint a guardian of the person of an adult.

In any case within paragraph (3), (4), or (6) of this section, the attorney general, through the child support enforcement agency, may exercise concurrent jurisdiction as provided in chapter .”

SECTION 4. It is the intent of this Act not to jeopardize the receipt of any federal aid, and to the extent, and only to the extent, necessary to effectuate this intent, the governor may modify the strict provisions of this Act, but shall promptly report any such modification with reasons therefor to the legislature at its next session thereafter for review by the legislature.

SECTION 5. 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 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved June 1, 1988.)

ACT 155

H.B. NO. 3635

A Bill for an Act Relating to Forgeries.

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

SECTION 1. Section 708-850, Hawaii Revised Statutes, is amended by adding the definition of “falsely endorse” to read as follows:

“(9) ‘Falsely endorse.’ in relation to a written instrument, means to endorse, without the authority of the ostensible maker or drawer, any part of a written instrument, whether complete or incomplete, so that the written instrument so endorsed falsely appears or purports to be authorized by the ostensible maker or drawer;”

SECTION 2. Section 708-851, Hawaii Revised Statutes, is amended to read as follows:

“§708-851 Forgery in the first degree. (1) A person commits the offense of forgery in the first degree if, with intent to defraud, he falsely makes, completes, endorses, or alters a written instrument, or utters a forged instrument, which is or purports to be, or which is calculated to become or to represent if completed:

- (a) Part of an issue of stamps, securities, or other valuable instruments issued by a government or governmental agency; or
 - (b) Part of an issue of stock, bonds, or other instruments representing interests in or claims against a corporate or other organization or its property.
- (2) Forgery in the first degree is a class B felony.”

SECTION 3. Section 708-852, Hawaii Revised Statutes, is amended to read as follows:

“§708-852 Forgery in the second degree. (1) A person commits the offense of forgery in the second degree if, with intent to defraud, he falsely makes, completes, endorses, or alters a written instrument, or utters a forged instrument, which is or purports to be, or which is calculated to become or represent if completed, a deed, will, codicil, contract, assignment, commercial instrument, or other instrument which does or may evidence, create, transfer, terminate, or otherwise affect a legal right, interest, obligation, or status.

(2) Forgery in the second degree is a class C felony.”

SECTION 4. Section 708-853, Hawaii Revised Statutes, is amended to read as follows:

“§708-853 Forgery in the third degree. (1) A person commits the offense of forgery in the third degree if, with intent to defraud, he falsely makes, completes, endorses, or alters a written instrument, or utters a forged instrument.

(2) Forgery in the third degree is a misdemeanor.”

SECTION 5. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 1, 1988.)

ACT 156

H.B. NO. 3494

A Bill for an Act Relating to Measurement Standards.

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

SECTION 1. The purpose of this Act is to codify, in logical sequence, the responsibilities of the Department of Agriculture, the Board of Agriculture, and the Chairperson of the Board of Agriculture currently in effect under Chapters 486, 486D, 292, and 486A, Hawaii Revised Statutes.

Chapters 486, 486D, 292 and 486A will be combined into a new Chapter 486, Part I, Part II, Part III and Part IV, respectively.

SECTION 2. Chapters 292, 486, 486A and 486D, Hawaii Revised Statutes, are repealed.

SECTION 3. The Hawaii Revised Statutes is amended by adding a new chapter 486 to read as follows:

“CHAPTER 486

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PART I MEASUREMENT STANDARDS, UNIFORM PACKAGING AND LABELING

§486-1 Definitions. As used in this chapter, unless the context otherwise requires:

“Administrator” means the administering officer of the division of measurement standards.

“Advertising” or “advertising medium” includes all publicity, mass media, signs, banners, posters, placards, labels, streamers, marks, brands, grades, descriptions or displays.

“Board” means board of agriculture.

“Certificate of measure” includes a certificate of measure issued in compliance with this chapter, and shall be *prima facia* evidence of the accuracy of the amount shown.

“Chairperson” includes the chairperson of the board of agriculture and when specifically designated by the chairperson for the purpose of effectuating this chapter, the deputy to the chairperson.

“Commodity in package form” includes a measure of a consumer commodity in either bulk or packaged form, which may or may not be associated with a posted price per unit measure, exclusive however of any auxiliary shipping container enclosing packages that individually conform to the requirements of this chapter. An individual item or lot of any commodity not in package form in the usual sense, but with which a price per unit measure is associated is a commodity in package form.

“Consumer commodity” means any article, product, good or agricultural or other commodity of any kind that is customarily produced or distributed for sale through mercantile or retail sales outlets for consumption or use by individuals, including but not limited to food products or consumer packages.

“Consumer package” means a commodity in package form that is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption or use by individuals for the purpose of personal care or about the household or in connection with personal possessions.

“Department” means department of agriculture.

“Gasoline” includes any product which conforms to the standards as established by the American Society for Testing and Materials, and as adopted or amended and adopted by rule of the board.

“Holding tank” includes any tank, other than vehicle tank, intended to hold, store, or otherwise contain, any product for commercial use, either as a measure per se or as a container.

“Inspector” includes the chairperson, administrator, and any qualified individual so designated by the department of personnel services and appointed as such by the board.

“Intrastate commerce” means commerce or trade begun, carried on, and completed wholly within the limits of the State.

“Introduced into intrastate commerce” means the time and place at which the first sale and delivery of a commodity is made within the State, the delivery being made either directly to the purchaser or to a common carrier for shipment to the purchaser.

“Label” includes any written, printed or graphic matter affixed to, applied to, attached to, blown into, formed, molded into, embossed on, or appearing upon or adjacent to a consumer commodity, for purposes of branding, pricing, identifying, or giving any information with respect to the consumer commodity.

“Lubricating product” includes those products which are intended for use in internal combustion engines or for purposes of lubrication, and which conform

to the specifications as established by the American Society for Testing and Materials, or the Society of Automotive Engineers and which have been adopted, or amended and adopted by rule of the board.

"Manufacturer" includes manufacturers, processors, producers, packers, refiners, importers, dealers, or agents at wholesale or retail level.

"Measure" includes all measures of every kind, including but not limited to weight, mass, length, volume, and count; instruments and devices for measuring; and appliances and accessories associated with any such instruments and devices.

"Measurement standards" includes any standard or definition or model or reference or measurement relating to metrology including but not limited to weights and measures, artifacts, and reproducible definitions of a unit of measure and their applicable tolerances including those of the SI, and definitions of a lot size, sample and tolerances as related to statistical inspection.

Such standards shall, insofar as it is appropriate, be traceable and in agreement with their counterpart as established by the National Bureau of Standards, the American Society for Testing and Materials, the American National Standards Institute, the International Organization of Legal Metrology, the International Bureau of Weights and Measures and as related to SI, to the standards established by the Secretary of Commerce and adopted or amended and adopted by rule of the board.

"Metric system" means the SI or International System of Units, as established by the General Conference of Weights and Measures in 1960 and as interpreted or modified for the United States by the Secretary of Commerce. The modernized metric system is identified by the capital letters "SI" in all languages. Whenever the term "metric" or "metric system" or "metric system of measurement" is used, it shall mean "SI".

"Misbranded" includes:

- (A) False, incomplete, incorrect or misleading labeling;
- (B) Misrepresentation as to the identity, quantity, quality or point of origin;
- (C) Misrepresentation as to the principal place of business of the manufacturer;
- (D) Misrepresentation by vignette, pictorial display, identifiable geographical location or by any term, word or phrase in juxtaposition to any other information associated with, labeled on or accompanying the consumer commodity which falsely alludes to a specific point of origin, a general locale such as a state, or to historical usage by a people;
- (E) Misrepresentation as to originality or creativity;
- (F) Misrepresentation of the consumer commodity as an imitation to another or as an imitation to a generic product; and
- (G) Misrepresentation in any other manner tending to confuse the prospective purchaser.

"Nonconsumer package" means any commodity in package form other than a consumer package, and particularly a package designed solely for industrial or institutional use or for wholesale distribution only.

"Octane index" means the resultant of the RON (Research Octane Number) plus MON (Motor Octane Number) divided by two.

"Package" means a container or wrapper enclosing a commodity for sale, delivery or display, but does not include shipping containers or wrapping used solely for the transportation of that commodity.

"Petroleum product" shall have the meaning established under section 486-50.

"Petroleum product dispenser" includes petroleum product measuring devices but is not limited to: lubricating oil bottles, measure-containers, containers, and mechanisms or machines designed to measure and deliver liquid by a definite

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mass or volume. Means may or may not be provided to indicate automatically or on a command signal, one of a series of unit prices or the total money value or cost of the liquid measured, or to make deliveries corresponding to specific money at a definite unit price.

“Sell” and “sale” include barter and exchange.

“Standard test” or “standard method” includes any test or method conducted or prescribed in accordance with the measurement standards established under section 486-1.

“State” means the State of Hawaii.

“Vehicle tank” means any tank, which is mounted on a vehicle and is intended for use as a container.

§486-2 Cooperation; uniformity of regulations. The board may cooperate and enter into agreements with any State or county agency, federal or other state or county agency with similar statutory functions for the purpose of carrying out the respective parts of this chapter and to establish uniformity, to the extent that it is reasonably possible, with federal enactments or regulations consistent with the respective parts of this chapter.

§486-3 Construction. The license required by any part of this chapter shall be in addition to any other license required by law.

The operation and effect of any provision of the respective parts of this chapter conferring a general power shall not be impaired or qualified by the granting of a specific power or powers, and to that end each provision of the respective parts of this chapter shall be construed liberally.

If any provision of the respective parts of this chapter is in conflict with any statute, ordinance, rule or regulation, the provisions of this chapter shall take precedence.

§486-4 Division of measurement standards; administrator. There shall be a division of measurement standards within the department of agriculture. The board shall appoint an administrator of measurement standards, who shall enforce the board's rules and administer the division and such technical and clerical personnel as are necessary to carry out parts I, II, III, and IV of this chapter, in accord with the power, authority and duties delegated by the board.

§486-5 Powers and duties of the administrator, and inspectors. The administrator may delegate any of his authority, powers and duties to the inspectors or other measurement standards personnel when such delegation is deemed necessary for the efficient and effective enforcement of the respective parts of this chapter.

§486-6 General powers and duties of board. The board shall have the custody of the State measurement standards including the other standards and equipment provided for by this chapter, and shall keep accurate records of the same. The board shall maintain such standards in a protective environment, as appropriate to such standards, and through the administrator and inspectors, shall enforce parts I, II, III and IV of this chapter. The board shall have and maintain general supervision over the measurement standards proposed, established, or in use, and measures and measurement standards offered for sale, sold, or in use in the State.

§486-7 Specific powers and duties of the board; rules. The board shall issue from time to time reasonable rules for the enforcement of the respective parts of this chapter. These rules shall have the force and effect of law and shall govern the use or application of measurement standards, measures, and measuring transactions in the State. These rules may include:

- (1) Standards of net measure, and reasonable standards of fill for any commodity in package form;
- (2) Rules governing the technical and reporting procedures to be followed, the report and record forms to be used by persons subject to the provisions of this chapter and the marks of approval and rejection to be used by the administrator, inspectors and measurement standards personnel in the discharge of their official duties;
- (3) Exemptions from the sealing, labeling, marking, or other requirements of the respective parts of this chapter;
- (4) Rules and fees governing the mandatory registration or resident service persons, and procedures for invalidating such registration when necessary for protection of the consumer;
- (5) Rules governing performance bonding of non-registered or non-resident service persons;
- (6) Schedules and fees for licensing measuring devices;
- (7) Schedules and fees for calibrating or testing measurement standards, and registration of the products covered by such measurement standards;
- (8) Specifications, tolerances and other technical requirements with respect to the packaging, registering, handling, storing, advertising, labeling, dispensing, and selling of petroleum products;
- (9) Rules to assure that amounts of commodities or services sold are determined in accordance with good commercial practice and are so determined and represented as to be accurate and informative to all parties at interest; and
- (10) Such other rules or regulations as the board deems necessary for the enforcement of the respective parts of this chapter.

These rules shall include specifications, tolerances and other technical requirements designed to eliminate from use those measures and measurement standards:

- (A) That are not accurate;
- (B) That are of such construction that they are faulty, that is, that are not reasonably permanent in their adjustment or will not repeat their indications correctly; or
- (C) That facilitate the perpetration of fraud.

In addition, the board shall promulgate rules relating to SI, definitions, standards, tolerances, use, applicability and units. The specifications, tolerances and other technical requirements for measuring devices as recommended and published by the National Bureau of Standards as adopted, or amended and adopted by the board; and those standards published by any of the standards-setting bodies identified in the definition of measurement standards under section 486-1 as adopted, or amended and adopted by the board, together with rules issued by the board under authority of the respective parts of this chapter, shall be the specifications, tolerances, and other technical requirements for measures and measurement standards of the State.

The board may, pursuant to chapter 91, adopt, or amend and adopt, in whole or in part, any measurement standard established by the National Bureau of Standards or by the standards setting bodies identified in the definition of measurement standards under section 486-1. For the purpose of parts I, II, III or IV of this chapter, a measure or measurement standard is "correct" when it conforms to all applicable sections of the respective parts of this chapter or to such rules promulgated pursuant thereto; all other measures and measurement standards are "incorrect".

§486-8 Systems of measurement. The United States customary system of

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weights and measures and the metric system of measurement are jointly recognized, and either one or both shall be used by rule of the board for all measurement purposes in the State. The definitions of basic units of measure, the tables of measure, and measure equivalents, the specifications, tolerances and other technical requirements for measuring devices, as published by the National Bureau of Standards, and adopted, or modified and adopted by the board, together with the measurement standards provided for herein, are recognized and shall govern measurement standards, measuring equipment and measuring transactions in the State.

§486-9 State measurement standards. The State measurement standard artifacts shall be in conformity with the measurement standards of the United States. As applicable, they shall have been calibrated for such use by the National Bureau of Standards or other appropriate agency and shall be maintained in such calibration, as is prescribed by that bureau or agency, by and within the laboratory of the State division of measurement standards. They shall not be removed from that laboratory except upon request of the National Bureau of Standards or other appropriate agency for calibration audit, provided that they may be relocated for the convenience of the State by directive of the governor.

§486-10 Secondary standards and equipment. The State shall supply secondary standards and other equipment as is necessary to carry out the provisions of this chapter. These standards shall be verified, by comparison with the State standards, upon their initial receipt and at least once a year thereafter.

§486-11 General testing. Unless otherwise provided by law, the department, through the division of measurement standards, shall inspect and test, to ascertain if they are correct, all measurement standards and measuring devices kept, offered, or exposed for sale, sold or in use in the State. The department may, as often as it deems necessary, inspect and test, to ascertain if they are correct, all measurement standards and measuring devices used in determining the measurement of commodities or things sold, or offered or exposed for sale, on the basis of measure; in computing the basic charge or payment, including taxes, for services rendered on the basis of measure; in determining measurement when a charge is made for such determination, including the payment of any associated tax; provided that in compliance with a rule of the board, tests may be made on representative samples of such commodities of things or devices, and the lots of which samples are representative shall be held to be correct or incorrect upon the basis of the results of the inspections and tests on such samples; and provided, that with respect to single-service devices designed to be used only once and to be then discarded or with respect to devices uniformly mass-produced, as by means of a mold or die, and not susceptible of individual adjustment, the inspection and testing requirements of this section will be satisfied when inspections and tests are made on representative samples of such devices, and the lots of which samples are representative shall be held to be correct or incorrect upon the basis of the results of the inspections and tests of such samples.

§486-12 Testing at State-supported institutions. The department, through the division of measurement standards, shall from time to time test all measures used in establishing or verifying any other measurement, including any measure or measurement standard used in checking the receipt or disbursement of supplies in every institution for the maintenance of which moneys are appropriated by the legislature, reporting its findings, in writings, to the supervisory board and to the executive officer of the institution concerned.

§486-13 Use; disposition of correct or incorrect apparatus. The depart-

ment, through the division of measurement standards, shall type approve for use, and seal or mark with appropriate devices, such measures and measurement standards as it finds, upon inspection and test, to be "correct" as defined in section 486-7, and in compliance with such type approval rules as the board may establish. The department, through the division of measurement standards shall reject and mark or tag as "rejected" such measures and measurement standards as it finds, upon inspection and test, to be "incorrect" as defined in section 486-7, or in non-compliance with such type approval rules as the board may establish; provided, that sealing or marking shall not be required with respect to such measures and measurement standards as may be exempted therefrom by a rule of the board issued under the authority of section 486-7. Measures and measurement standards that have been rejected as to type or for other valid reasons may be confiscated and may be destroyed by the department, through the division of measurement standards, if not corrected as required by section 486-14, or if used or disposed of contrary to the requirements of section 486-14. In carrying out this section, the department, through the division of measurement standards, may use such terms as "rejected," "accepted," "incorrect," "inaccurate," "accurate," "tested," "approved," "certified," or terms of similar import on marks or tags or certificates, as necessary, to convey to all interested parties the condition or state of the device or apparatus. Any such mark or tag shall be subject to section 486-7 and its unauthorized application or removal shall be a violation of this chapter.

§486-14 Duties of owners or custodians of measuring apparatus. Measures and measurement standards shall be subject to the control of the board until such time as they have been type approved for use, as provided under section 486-13. Measures or measurement standards that have been initially type approved and subsequently found to be incorrect as defined under section 486-7 or section 486-13 shall remain subject to the control of the rejecting authority until such time as suitable repairs shall have been effected, as provided by rule of the board, or such devices may be destroyed. The owners of the unapproved or rejected measures or measurement standards shall cause the same to be type approved or made correct within thirty days or such longer period as may be authorized by the rejecting authority; or, in lieu of this, may dispose of the same, but only in such manner as is specifically authorized by the rejecting authority. Measures and measurement standards subject to this chapter that have not been type approved or that have been rejected shall not be used until they have been officially type approved or re-examined and found to be correct or until specific written permission for such use is issued by the rejecting authority, or until the rejection tag has been removed and the rejected device or apparatus repaired or corrected and placed in service by a person duly registered to perform the acts under a rule adopted by the board for the registration of measuring device service persons.

§486-15 Method of sale of commodities; general. Commodities in liquid form shall be sold only by liquid measure or by weight, and, except as otherwise provided in parts I or II of this chapter, commodities not in liquid form shall be sold only by weight, mass, volume, length, area, or by count; provided, that liquid commodities may be sold by weight and commodities not in liquid form may be sold by count only if such methods give accurate information as to the quantity of commodity sold; and provided further, that the provisions of this section shall not apply, if exempted by a rule of the board:

- (1) To commodities when sold for immediate consumption on the premises where sold;

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- (2) To vegetables when sold by the head or bunch;
- (3) To commodities in containers standardized by law of this State or by federal law;
- (4) To commodities in package form when there exists a general consumer usage to express the quantity in some other manner;
- (5) To concrete aggregates, concrete mixtures, and loose solid materials such as earth, soil, gravel, crushed stone, and the like, when sold by cubic measure; or
- (6) To unprocessed vegetable and animal fertilizer when sold by cubic measure.

The board may adopt such reasonable rules as may be necessary to assure that the measure of any commodity for sale reflects accurate information and fair measurement practices to all concerned.

§486-16 Packages; declarations of quantity and origin; variations; exemptions. Except as otherwise provided in part I, II or III of this chapter, any commodity in package form introduced or delivered for introduction into or received in intrastate commerce, kept for the purpose of sale, or offered or exposed for sale, shall bear on the outside of the package such definite, plain, and conspicuous declarations of:

- (1) The identity of the commodity in the package;
- (2) The net quantity of the contents in terms of measure; and
- (3) In the case of any package kept, offered, or exposed for sale, or sold in any place other than on the premises where packed, the name and place of business of the manufacturer, packer, or distributor, as may be prescribed by rule of the board;

provided, that, in connection with the declaration required under paragraph (2) above, neither the qualifying term "when packed" or words of similar import, nor any term qualifying a unit of measure (for example, "jumbo," "giant," "full," and the like) that tends to exaggerate the amount of commodity in the package shall be used; and provided further, that under paragraph (2) above, the board may, by rule, establish reasonable variations from the declared measure; exemptions as to small packages; and exemptions as to commodities put up in variable measures for sale intact and either customarily not sold as individual units or customarily measured at time of sale to the consumer.

§486-17 Declarations of unit price on random packages. In addition to the declarations required by section 486-16, any commodity in package form, being one of a lot containing random measure of the same commodity and bearing the total selling price of the package, shall bear on the outside of the package a plain and conspicuous declaration of the price per single unit of measure, as established by rule of the board.

§486-18 Deceptive package. No commodity in package form shall be so wrapped, or labeled, nor shall it be in a container so made, formed, or filled as to mislead the purchaser as to the quantity of the contents of the commodity in the package, and the contents of a container shall not fall below such reasonable standard of fill as may have been prescribed for the commodity by rule of the board.

§486-19 Advertising packages for sale. Whenever a commodity in package form is advertised in any manner, excluding its labeling, and the retail price of the package is stated in the advertisement, there shall be closely and conspicuously associated with such statement of price a declaration of the basic quantity of contents of the package as is required by law or rule to appear on the package; provided,

that, where the law or rule requires a dual declaration of net quantity to appear on the package, only the declaration that sets forth the quantity in terms of the smaller unit of measure (the declaration that is required to appear first and without parentheses on the package) need appear in the advertisement; and provided further, that there shall not be included as part of the declaration required under this section such qualifying terms as "when packed," "minimum," "not less than," or other terms of similar import, nor any term qualifying a unit of measure (for example, "jumbo," "giant," "full," and the like) that tends to exaggerate the amount of commodity in the package.

§486-20 Sale by net measure. The term "measure" unless qualified to the contrary, as used in parts I and II of this chapter in connection with any commodity in package form shall mean net measure, such qualifications being subject to rule of the board.

§486-21 Misrepresentation of price. Whenever any commodity or service is sold, or is offered, exposed, or advertised for sale, by measure, the price shall not be misrepresented, nor shall the price be presented in any manner calculated or tending to mislead or deceive an actual or prospective purchaser. Commodities in package form, when offered for sale at retail, shall reflect the retail price at which the public may, without special credentials or other requirements, purchase such commodities. Whenever an advertised, posted, or labeled price per unit of measure includes a fraction of a cent, all numerals expressing the fraction shall be prominently displayed and the numeral or numerals expressing the fraction shall be immediately adjacent to, of the same general design and style as established by rule of the board.

§486-22 Inspection of packages. The department, through the division of measurement standards, shall measure and inspect packages or amounts of commodities kept, offered, or exposed for sale, sold, or in the process of delivery, to determine whether the same contain the amounts represented and whether they be kept, offered, or exposed for sale or sold in accordance with the law. When such packages or amounts of commodities are found not to contain the amount represented, or are found to be kept, offered, or exposed for sale in violation of law, the department, through the division of measurement standards, may order them off sale and may mark or tag them to show them to be illegal. The department, through the division of measurement standards, may employ recognized sampling procedures under which the compliance of a given lot of packages will be determined on the basis of the result obtained on a sample selected from and representative of such lot. No person shall:

- (1) Sell, or keep, offer or expose for sale any package or amount of commodity in package form unless such package or amount of commodity in package form is in full compliance with all legal requirements;
- (2) Sell, or keep, offer or expose for sale any package or amount of commodity in package form that has been ordered off sale or marked or tagged as provided in this section, and which package or amount of commodity in package form has subsequently been brought into legal compliance, unless and until written authorization for such action has been issued by the administrator;
- (3) Dispose of any package or amount of commodity in package form that has been ordered off sale or marked or tagged as provided in this chapter that has not been brought into full compliance with all legal requirements, until written authorization for such disposal has been issued by the administrator.

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Nothing in this section shall prohibit the administrator from authorizing the disposal of any package or amount of commodity in package form, when in the administrator's discretion the best interest of the public will be served by such authorization.

The department, through the division of measurement standards, may seize and dispose of any package or amount of commodity in package form that has been ordered off sale for reasons of legal non-compliance when remedial action is not effected as required under the terms of the off sale order, as established by rule of the board.

§486-23 Investigations. The administrator of measurement standards shall investigate complaints made to the administrator concerning violations of this part and shall, upon the administrator's own initiative, conduct such investigations as the administrator deems appropriate and advisable to develop information on prevailing procedures in commercial quantity determination and on possible violations of this part and to promote the general objective of accuracy in the determination and representation of quantity in commercial transactions.

§486-24 Stop-use, stop-removal, stop movement and removal orders. The administrator may issue citations and, incident thereto, stop-use orders, stop-removal orders, stop movement and removal orders with respect to measures and measurement standards being, or susceptible of being, unlawfully used; and issue citations and, incident thereto, stop-removal orders, stop movement and removal orders with respect to commodities in package form kept, offered, or exposed for sale, sold, or in process of delivery, whenever in the course of the administrator's enforcement of the law the administrator determines that such measure or measurement standard or commodities in package form do not comply with the applicable sections of part I, II, III or IV of this chapter or the rules promulgated thereunder, and no person shall use, remove or move from the premises, as specified, any measure, measurement standard, package or amount of commodity contrary to the terms of a stop-use order, stop-removal order, stop movement or removal order issued under the authority of this section.

§486-25 Misbranding. (a) No person shall deliver for introduction, hold for introduction or introduce; or keep, offer or expose for sale; or sell any consumer commodity which is misrepresented or misbranded in any manner.

(b) The board, pursuant to section 486-7 and chapter 91, shall adopt rules relating to misbranding. The rules may:

- (1) Require any person involved with a specified consumer commodity to keep and make available for inspection or copying by the administrator adequate records to substantiate the source of the consumer commodity, or in the case of blends, the source of such constituents, as may be required by the board;
- (2) Establish fanciful names or terms, and in the case of blends, minimum constituent content by weight, to be used in labeling to differentiate a specific consumer commodity from an imitation or look-alike; or
- (3) Establish requirements to reconcile the respective volumes of specific consumer commodities received versus the total amounts output, either as whole or processed product or as blends.

In addition, the board may adopt other rules as the board deems necessary for the correct and informative labeling of consumer commodities.

§486-26 Hawaii-made products. No person shall keep, offer, display or expose for sale, or solicit for the sale of any item, product, souvenir, or any other merchandise which is labeled "made in Hawaii" or which by any other means

misrepresents the origin of the item as being from any place within the State, which has not been manufactured, assembled, or fabricated within the State and which has not had at least twenty-five per cent of its wholesale value added by manufacture, assembly, or fabrication within the State.

§486-27 Bulk deliveries. When a commodity is purchased in bulk or when a charge is levied for the transportation of a commodity in bulk, the delivery of such commodity shall be accompanied by a "certificate of measure," issued by a licensed measure master in a form prescribed by the administrator, and shall contain at least the following information:

- (1) Name and address of the vendor,
- (2) Name and address of the purchaser,
- (3) The net measure of the delivery, and
- (4) The date, time and place of the measure determination and the name of the person who made such determination.

The board may, by rule, require any additional data that will assure positive accurate description of the quantities determined.

§486-28 Measure master's license, fee; regulations; offenses; penalties.

The administrator may issue licenses to qualified measure masters. For the purpose of this section, a measure master is a person who is licensed to measure and to issue documentation relating to such measurement. An annual license fee of not less than \$20, as established by rule of the board shall be paid and the fee shall be deposited into the general fund. The board may provide by rule for the exemption of state or county employees who qualify as measure masters from payment of the license fee.

The board may, pursuant to chapter 91, adopt rules and regulations governing, but not limited to, the following subject matter:

- (1) Qualifications as to age, character, ability to measure, experience, and education of a measure master;
- (2) Creation of a seal to be utilized by a measure master;
- (3) Transactions requiring certificates of measure;
- (4) Execution requirements of a certificate of measure;
- (5) Bonding;
- (6) Record keeping;
- (7) Prohibited acts;
- (8) Suspension and revocation of a license;
- (9) Such other matters that will effectuate the purpose of this section.

Any person who requests a measure master to measure any property, produce, commodity, or article falsely or incorrectly; or who issues a false or incorrect certificate of measure, or any document simulating, forging, or duplicating the certificate of measure as defined in section 486-1 and who is not a measure master, shall be fined not less than \$500 or imprisoned not less than three months, or both.

Any measure master who falsifies a certificate of measure, or who delegates the measure master's authority to any person who is not a measure master, or who preseals a certificate of measure with the measure master's official seal before performing the act of measuring, shall be fined not less than \$1,000 or imprisoned not less than six months or both.

Any person who violates any provision of this section or any rule or regulation adopted pursuant thereto for which no specific penalty has been provided shall be fined not less than \$100 nor more than \$500.

§486-29 Hindering or obstructing an officer or inspector; bribery; penalties. Any person who shall hinder or obstruct in any way an inspector or any

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other officer or employee in the performance of the inspector's, officer's, or employee's official duties prescribed by this chapter or any rule or regulation promulgated pursuant to this chapter, shall be fined not less than \$200 nor more than \$500, or imprisoned not more than three months, or both.

Any person who shall give, pay, or offer, directly or indirectly, to any inspector or any other officer or employee of this State authorized to perform any of the duties prescribed by this chapter or any rule, regulation or order adopted or issued pursuant to this chapter, any money or other thing of value, with intent to influence said inspector, or other officer or employee of this State, in the discharge of any duty herein provided for shall be fined not more than \$5,000 or imprisoned not more than two years, or both.

Any inspector or other officer or employee of the State authorized to perform any of the duties prescribed by this chapter who shall accept any money, gift, or other thing of value from any person, given with intent to influence the inspector's, officer's, or employee's official action, shall be summarily discharged from the inspector's, officer's, or employee's employment and shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

§486-30 Impersonation; forgery; penalties. Any person who shall impersonate in any way an inspector or any officer or employee charged with the administration or enforcement of the respective parts of this chapter, or forge any official device, seal or mark, shall be fined not less than \$100 nor more than \$500, or imprisoned not more than one year, or both.

§486-31 Enforcement; citation and notice to appear; penalty; right of entry and inspection; stopping vehicles. Any authorized inspector or other authorized measurement standards personnel may, upon arresting any person for violation of part I, II, III or IV of this chapter, including rules promulgated thereunder, take the name, address, and any other pertinent information of such person and issue him a citation and notice to appear, printed in the form hereinafter described, and answer to the charge against him at a certain place and at a time as prescribed by the district courts.

There shall be a form of citation and notice to appear for use in citing violators of part I, II, III or IV of this chapter and the rules promulgated thereunder by the board, which does not mandate the taking into custody of such violators. The citation and notice to appear shall be printed in a form commensurate with the form of other citations and notice to appear used in modern methods of arrest and shall be designed to include all necessary information. The form and contents of the citation and notice to appear shall be as adopted or prescribed by the district courts.

In every case when a citation and notice to appear is issued, it shall be issued in accord with a regulation of the board, consistent with the provisions as established by the district courts. Every citation and notice to appear shall be consecutively numbered and each carbon copy shall bear the number of its respective original.

Any person who fails to appear at the place and within the time specified in the citation and notice to appear shall be guilty of a violation as provided in the penal code.

Any authorized inspector may cite and, incident to such citation, seize, without formal warrant, incorrect or unsealed measures, measurement standards, or amounts or packages of commodity found to be used, retained, offered, or exposed for sale or sold in violation of law.

Any authorized inspector may stop any vehicle subject to this chapter where probable cause exists and require the driver to move the vehicle to a designated place for inspection.

The chairperson or the administrator may, in the public interest, serve suitable notices or warnings rather than resorting to prosecution for minor violations and may void citations for de minimis violations hereof, when the best interest of the public is served in so doing.

Any authorized inspector may enter and go into or upon at any reasonable time, without formal warrant, after having made a reasonable attempt to identify himself, in accordance with the law, any structure, premises, or any other place where commercial transactions or articles subject to this chapter are being conducted or located, provided that, in the case where an objection to such entry is expressed by competent authority, a warrant shall be obtained prior to such entry.

When a complaint is made to any prosecuting officer of the violation of any of the parts of this chapter, including rules and regulations promulgated thereunder, and the arrest or prosecution of the violator is sought, the arresting officer or employee, who issued the citation and notice to appear, shall subscribe to it under oath administered by an official, whose name has been submitted to the prosecuting officer and who has been designated by the administrator to administer the same and, upon probable cause, the court may issue a warrant for the violator.

§486-32 Offenses and penalties. Any person who, by himself, or by his servant or agent, or as the servant or agent of another person, performs any one of the acts enumerated in paragraphs (1) through (9) of this section shall be guilty of a misdemeanor and, upon a first conviction thereof, shall be punished by a fine of not less than \$200 nor more than \$500, or by imprisonment for not more than three months, or both; and, upon a second or subsequent conviction thereof, shall be punished by a fine of not less than \$500 nor more than \$1,000 or by imprisonment for not more than one year, or both:

- (1) Use or have in possession for the purpose of using for any purpose specified in section 486-11, sell, offer, or expose for sale or hire, or have in possession for the purpose of selling or hiring, an incorrect or unapproved type measure or measurement standard or any device or instrument used to or calculated to falsify any measure.
- (2) Use, or have in possession for the purpose of current use for any purpose specified in section 486-11, an unapproved type or approved type measure or measurement standard that does not bear a seal or mark such as is specified in section 486-13, unless such measure or measurement standard has been exempted from testing by the provisions of section 486-7 or 486-11 or by a rule of the board issued under the authority of section 486-7, or unless the device has been placed in service as provided by a rule of the board issued under the authority of section 486-11, or unless the measure or measurement standard is being installed or repaired preparatory to installation.
- (3) Dispose of any rejected or condemned measure or measurement standard in a manner contrary to law or rule.
- (4) Remove from any measure or measurement standard, contrary to law or rule, any tag, seal, or mark placed thereon by the appropriate authority.
- (5) Sell, or offer or expose for sale, less than the quantity the person represents of any commodity, thing, or service.
- (6) Manipulate in any manner the representation of the quantity of any commodity, thing or service furnished, delivered or provided to the detriment or unjust enrichment of any person involved.
- (7) Keep for the purpose of sale, advertise, or offer or expose for sale, or sell any commodity, thing, or service in a condition or manner contrary to law or rule.

- (8) Use in retail trade, a measure that is not so positioned that its indications may be accurately read and the measuring operation observed from some position which may reasonably be assumed by a customer.
- (9) Violate any provision of the respective parts of this chapter, the rules or the regulations promulgated under the respective parts of this chapter for which a specific penalty has not been prescribed.

§486-33 Injunction. In addition to any other remedy by law provided, the chairman may apply to any court of competent jurisdiction for, and the court upon hearing and for cause shown may grant, a temporary or permanent injunction restraining any person from violating any provision of the respective parts of this chapter or the rules promulgated thereunder.

§486-34 Presumptive evidence. For the purposes of the effective enforcement of the respective parts of this chapter, proof of the existence of a measure or measurement standard in or about any building, enclosure, stand, or vehicle in which or from which it is shown that buying or selling is commonly carried on, shall, in the absence of conclusive evidence to the contrary, be "presumptive proof of the susceptibility of commercial use" of such measure or measurement standard.

§486-35 Nonapplicability. This part shall not apply to measures or measuring devices utilized in public utilities that are subject to measurement standards control under any other statute or rule of the State.

PART II PETROLEUM PRODUCT ACCOUNTING

§486-50 Definitions. As used in this part, unless the context otherwise requires:

"Cubic foot" means that amount of liquefied petroleum product, vapor, or natural gas vapor, or synthetic natural gas vapor, or any blend of the above, which will occupy 1728 cubic inches when its temperature is sixty degrees fahrenheit at a pressure of 760 mm of Hg (mercury). The density of the Hg shall be 13.5951 grams per cubic centimeter per second, per second.

"Petroleum product" includes automotive gasoline, diesel fuels, fuel oils, liquefied petroleum gas both liquid and vapor, residuals, distillates and fractions, kerosene, aviation fuels, turbine fuels, solvent, hydro-carbons or synthetics, crude oil, lubricating oil, or any other oil or distillate or blends of the above or any other product or by-product normally considered a petroleum product, and synthetic natural gas or natural gas and manufactured gas or blends thereof.

"U. S. petroleum gallon" means that amount of petroleum product which occupies 231 cubic inches exactly when its temperature is sixty degrees fahrenheit, or the expanded or contracted equivalent thereto at any other temperature.

§486-51 Applicability. This part and the measurement requirements herein, shall apply to the blending, charging, dealing, dispensing, distributing, exchanging, exporting, handling, importing, labeling, loading, manufacturing, marketing, measuring, packaging, piping, processing, reprocessing, producing, refining, or re-refining, retailing, selling, transporting, taxing, or wholesaling, or to any of the variant forms of the above or to the person, equipment, measurements, and calculations incident to such actions or activities involving petroleum products.

§486-52 Measurement standard. (a) Any petroleum product which is in a liquid state under conditions of 760 millimeters of Hg at sixty degrees fahrenheit shall be measured in terms of the U. S. petroleum gallon; its multiple or decimal submultiples, or compatible units of the SI as established by rule of the board.

(b) Any petroleum product which is in a vapor state under conditions of 258.575 millimeters or less of Hg at sixty degrees fahrenheit shall be measured in terms of cubic feet or in terms of a U. S. petroleum gallon; their multiples or decimal submultiples, or compatible units of the SI as established by rule of the board.

§486-53 Violations; penalties. Any person who commits any of the prohibited acts or omits any of the prescribed acts, herein required or required in any rule adopted by the board shall be subject to the penalties provided in section 486-32. Each day that a violation exists, or is continued, or continues to exist, shall be construed as a separate punishable offense.

§486-54 Investigations. The administrator may, upon the administrator's initiative, investigate suspected violations of this part and shall investigate each complaint registered under this part. The administrator may resort to suitable warnings rather than prosecution for minor offenses or those offenses which have been discontinued should the administrator so elect.

PART III ODOMETER ACCURACY AND RECORD MAINTENANCE

§486-70 Findings. The purpose of this part is to assure the accuracy of the odometer system installed in certain passenger cars introduced into the State for use, sale, resale, lease, re-lease, rental, rerental and to any of the above cars when they are intended for export.

The legislature finds that the automotive industry is cognizant of the concern of the public in regard to the over-registration of passenger car odometers, or the fraudulent manipulation thereof, and is desirous of assisting in eliminating such activities and prohibiting the inclusion of any distance measuring device in a passenger car that does not comply with the accuracy requirements of the State.

§486-71 Definitions. For the purposes of this part:

“Certificate of accuracy” includes a manufacturer’s certificate of accuracy, an interim certificate of accuracy and any written warranty attesting to the initial and subsequent accuracy of an odometer system, and the endorsement thereon.

“Certificate of ownership” has the meaning under section 286-47.

“Endorsement” means informational disclosure relating to a specific passenger car, including the vehicle identification number, odometer reading, seller’s signature if any, and such other information as required by rule of the board.

“Odometer” is an analog or digital measuring device that reflects distance traveled.

“Passenger car” means a vehicle with self-contained motive power and seating capacity up to twelve passengers (excluding the driver), not exceeding 16,000 pounds gross vehicle weight.

§486-72 New passenger car endorsement required. Except as by rule provided, all passenger car manufacturers or designated representatives, whose passenger cars are subject to this part, shall furnish the buyer of a new (not used) passenger car a properly endorsed manufacturer’s certificate of accuracy attesting to the odometer system accuracy and its initial odometer indication.

§486-73 Endorsement by seller required; upon transfer of title. Any passenger car, the title of which changes and whose model year does not exceed twenty-five years shall have its certificate of ownership, when such format provides space for endorsement, endorsed by the seller at the time of title transfer, provided

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that this section shall not apply to persons vested with only a security interest. When the format does not provide space for endorsement, a certificate of accuracy, supplied by the administrator may be utilized.

§486-74 Licensing without endorsement; prohibited. Any other law or regulations to the contrary notwithstanding, no passenger car required to have a certificate of ownership endorsement under sections 486-72 or 486-73 shall be licensed for operation within the State by any licensing agency without such endorsement.

§486-75 Properly functioning odometer required. No person shall introduce in the State for any purpose whatever, nor operate within the State for any purpose whatever, a passenger car unless it has installed a properly functioning and correctly calibrated odometer.

§486-76 Fees. Every motor vehicle covered by section 486-72 shall be assessed a verification fee for the initial verification of the accuracy of the odometer system. Such fee shall be levied only once, for each motor vehicle, and shall be payable in an amount and manner as may be prescribed by rule of the board.

§486-77 Tampering with passenger car odometer prohibited; misrepresentation of distance traveled prohibited. (a) It shall be unlawful to:

- (1) Tamper with an odometer, installed in a passenger car, for any purpose. This section shall not be construed to preclude legitimate repair, replacement or adjustment of an odometer, provided that the administrator may require documentation of such repair, replacement or adjustment.
- (2) Advertise for sale, sell, rent, lease or export any passenger car, the odometer of which has been tampered with in such a fashion or manner as to mislead the prospective buyer to believe that the passenger car traveled a lesser distance than it actually has traveled.
- (3) Operate a passenger car on any street or highway, knowing that the odometer of the passenger car is disconnected or nonfunctional.
- (4) Disconnect, turn back, advance or reset the odometer of any passenger car with intent to alter the distance indicated on the odometer.
- (5) Misrepresent the true distance traveled by any passenger car subject to this part, so as to mislead a prospective buyer.

(b) This section shall not preclude the installation, maintenance, repair or replacement of odometers when such action is necessary to cause compliance with this part. Any such action, however, shall expressly be noted on the certificate of ownership and called to the attention of a prospective buyer, in writing.

§486-78 Authority to inspect. The administrator may upon the administrator's own initiative or upon complaint, after properly identifying or making a legitimate effort to identify oneself, enter upon any public or private property, in accordance with law, where odometers may reasonably be stored, held, sold, repaired, altered, manipulated, or otherwise influenced so as to display any digital or analog representation, factual or otherwise, to determine if any actions relating to odometers are being conducted contrary to law.

§486-79 Citation and notice to appear; penalty. The administrator may issue to any person violating this part, a citation and notice to appear, at a given time and place, to answer to charges against the person.

The form, contents, copy designation and disposition, and appearance dates

of such citation and notice to appear shall be prescribed by the district courts. When a complaint of the violation of this part, including any rules adopted thereunder, is made to any prosecuting officer, the arresting officer or employee who issued the citation and notice to appear shall subscribe to it under oath administered by another official or officials of the department, whose name has been submitted to the prosecuting officer and who has been designated by the administrator to administer the same.

§486-80 Impoundment of evidence. The administrator may, for a period not to exceed ninety-six hours, impound as evidence any passenger car in which an inaccurate or incorrect or inoperable odometer system is installed or exists. Such period may be extended by order of the court.

§486-81 Confiscation of evidence. The administrator or any authorized inspector may confiscate as evidence any tools designed to change, manipulate, or otherwise alter the display of an odometer, when the inspector has reason to believe that such tools may be used in an illicit manner or by persons other than licensed dealers, or licensed repair agencies, or by persons gainfully employed by such agencies or dealers.

§486-82 Non-scheduled inspection, permissible. Any authorized inspector may, where probable cause exists, require the driver or custodian of a passenger car to move the passenger car to a designated place for inspection of the car or its odometer system.

§486-83 Scheduled inspection. The administrator or any authorized inspector may schedule odometer system inspection for passenger car(s) at a designated time and place. Failure to move or present the passenger car(s) as directed or scheduled shall be a violation of this part.

§486-84 Civil action. (a) Any person who violates any requirement imposed under this part shall be liable to the buyer, in an amount equal to the sum of:

- (1) Three times the amount of actual damages sustained or \$1,500, whichever is greater; and
- (2) In the case of any successful action to enforce the foregoing liability, the costs of the action, together with reasonable attorney fees as determined by the court.

(b) An action to enforce any liability created under subsection (a) of this section must be brought in a court of competent jurisdiction without regard to the amount in controversy, within two years from the date on which the liability occurred.

§486-85 Disclosure requirements; and record maintenance. All certificates of ownership, as issued by the respective counties, shall by license year 1992 be standardized in a form to be prescribed by the district courts, and such certificates shall have space for entering endorsements, among other requirements established under section 286-47. Each certificate shall have imprinted thereon a disclosure statement consistent with that required under the Federal Motor Vehicle and Cost Savings Act of 1972, et seq., as provided by rule of the board. Individual passenger car odometer records shall be maintained as a function of the vehicle safety check.

§486-86 Rules, authority to adopt or amend. The board shall adopt and amend, from time to time, the necessary rules to implement this part. Provisions of part I may be made applicable to rules promulgated under this part. Such rules

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shall be adopted or amended in accordance with chapter 91. These rules, applicable to passenger cars, may include:

- (1) Definitions, applicable to this part;
- (2) Schedules for odometer verification;
- (3) Procedures for odometer and odometer system verification;
- (4) Accuracy requirements;
- (5) Form formats;
- (6) Exemptions from the requirements of this part and rules promulgated thereunder;
- (7) Such other areas as deemed necessary, by the administrator, to effectively carry out the provisions of this part.

§486-87 Penalties. Any person guilty of committing any of the prohibited acts or omitting any of the required acts of this part or the rules promulgated hereunder shall be guilty of a misdemeanor and shall be fined not less than \$200 nor more than \$500, or be imprisoned not to exceed 90 days, for such first offense and, upon each subsequent violation, shall be fined not less than \$500 nor more than \$1,000, or be imprisoned for a period not to exceed one year, or suffer both such fine and imprisonment.

PART IV BREAD WEIGHT

§486-88 Weight of loaf. A loaf of bread for sale shall be one-half pound; three-quarters pound; one pound; one and a half pounds or multiples of one pound.

§486-89 Variations. Variations from the above weights, the sampling size, definitions, and exemptions shall be established by rule of the board in accordance with chapter 91.

§486-90 Twin or multiple loaves. Twin or multiple loaves may be sold, provided they conform to the above weight requirements.

§486-91 Penalties. Any person who violates the provisions of this chapter shall be subject to the penalties prescribed in section 486-32."

SECTION 4. Except as specifically contravened, all rules and regulations currently in effect, as they relate to parts I, II, III and IV, shall remain in effect until they are updated, amended or repealed.

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

(Approved June 1, 1988.)

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H.B. NO. 412

A Bill for an Act Relating to Massage.

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

SECTION 1. Section 452-14, Hawaii Revised Statutes, is amended to read as follows:

"§452-14 Examination. The department of commerce and consumer affairs or the board may contract with professional testing services to prepare, administer,

and grade the [examinations] examination for applicants as may be required for the purposes of this chapter. The examination of applicants for a license to practice massage shall be conducted under rules prescribed by the board and shall [include both practical demonstrations and] consist of a written examination which is not confined to any specific system or method and which is consistent with the practical and theoretical requirements of the occupation as provided by this chapter."

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

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

(Approved June 1, 1988.)

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H.B. NO. 1038

A Bill for an Act Relating to Infectious Diseases.

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

SECTION 1. Section 325-2, Hawaii Revised Statutes is amended to read:

"§325-2 Physicians, laboratory directors, and health care professionals to report. Every physician or health care professional having a client affected by or suspected of being affected by a disease or condition declared to be communicable or dangerous to the public health by the director of health shall report the incidence or suspected incidence of such disease or condition to the department of health in writing or in the manner specified by the department of health. Every laboratory director having laboratory data regarding an individual affected by or suspected of being affected by a disease or condition declared to be communicable or dangerous to the public health shall report such diseases or conditions to the department of health in writing or in a manner specified by the health department. Every physician, laboratory director, or health care professional who refuses or neglects to give such notice, or make such report, [shall] may be [guilty of a misdemeanor punishable as provided in section 325-14. In addition, the director of health may assess an administrative fine] fined in an amount not to exceed \$1,000 per violation[.], to be assessed by the director of health. The director of health is authorized to impose the penalty pursuant to this section."

SECTION 2. Section 325-53, Hawaii Revised Statutes, is amended to read as follows:

"§325-53 Reports of blood tests. In reporting a birth or fetal death, every physician or other person required to make such reports shall state, in a report accompanying the certificate, whether, according to the physician's or other person's knowledge or information, a blood test for syphilis has been made upon a specimen of blood taken from the woman who bore the child for which the birth or stillbirth certificate is filed and the approximate date when the specimen was taken. The department of health may investigate the circumstances surrounding the birth of any baby on whose mother no serologic test, as required by this part, appears to have been taken. Failure on the part of any physician or other person permitted by law to attend pregnant women to comply with this part [shall] may be [considered a misdemeanor.] punished by an administrative fine in an amount not to exceed \$1,000 per violation, to be assessed by the director of health. The director of health is authorized to impose the penalty pursuant to this section."

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SECTION 3. Section 325-56, Hawaii Revised Statutes, is amended to read as follows:

“§325-56 Penalty. Any physician or other person permitted by law to attend pregnant women, and any other person, who violates this part or any rule [or regulation] of the department of health adopted pursuant to this part, [shall] may be [guilty of a misdemeanor, punishable as provided by section 321-18.] fined in an amount not to exceed \$1,000 per violation, to be assessed by the director of health. The director of health is authorized to impose the penalty pursuant to this section.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved June 1, 1988.)

ACT 159

H.B. NO. 1604

A Bill for an Act Relating to Public Lands.

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

SECTION 1. The purpose of this Act is to authorize the board of land and natural resources to modify or change the use provisions set forth in intensive agricultural leases executed pursuant to chapter 171, Hawaii Revised Statutes.

The legislature finds that because of changing conditions present in intensive agriculture, the specific use or uses set forth in a lease may no longer be economically desirable or feasible, and many lessees may wish to devote a portion of their lands to alternative agricultural uses. The legislature further finds that such alternative uses will benefit the State because many of the intensive agricultural leases require the lessee to pay a percentage rent in addition to minimum annual rent, and permission to use intensive agricultural land more economically and efficiently will increase State revenues. Therefore, the legislature finds that it is in the public interest to allow lessees, with the consent of the board of land and natural resources and when supported by economic conditions and sound agricultural practices, to use at least some portion of their demised lands for intensive agricultural purposes other than the use or uses set forth in the lease. The authority to modify or change the use provisions in such leases will provide the board with a greater degree of flexibility, ensure that the land owned by the State is used in a more economically efficient manner, and provide the State with increased revenues. The legislature further finds that this ability will also be consistent with the principles set forth in the state agriculture plan which provides for the development of diversified agriculture throughout the State.

SECTION 2. Section 171-36, Hawaii Revised Statutes, is amended to read as follows:

“§171-36 Lease restrictions; generally. (a) Except as otherwise provided, the following restrictions shall apply to all leases:

- (1) Options for renewal of terms are prohibited;
- (2) No lease shall be for a longer term than sixty-five years, except in the case of a residential leasehold which may provide for an initial term of fifty-five years with the privilege of extension to meet the requirements of the Federal Housing Administration, Federal National Mortgage Association, Federal Land Bank of Berkeley, Federal Intermediate Credit Bank of Berkeley, Berkeley Bank for Cooperatives, or Veterans Administration requirements; provided that the aggregate of the initial term and extension shall in no event exceed seventy-five years;
- (3) No lease shall be made for any land under a lease which has more than two years to run;
- (4) No lease shall be made to any person who is in arrears in the payment of taxes, rents, or other obligations owing the State or any of its political subdivisions;
- (5) No lease shall be transferable or assignable, except by devise, bequest, or intestate succession; provided that with the approval of the board of land and natural resources, the assignment and transfer of a lease or unit thereof may be made if:
 - (A) It contains the personal residence of the lessee;
 - (B) In the case of commercial, industrial, hotel, resort, apartment, and other business uses, the lessee was required to put in substantial building improvements;
 - (C) The lessee becomes mentally or physically disabled;
 - (D) Extreme economic hardship is demonstrated to the satisfaction of the board; or
 - (E) It is to the corporate successor of the lessee;provided further that prior to the approval of any assignment of lease, the board shall have the right to review and approve the consideration paid by the assignee and, if necessary, revise the rent of the demised premises based upon the consideration paid by the assignee; and provided that the rent shall not be revised downward;
- (6) The lessee shall not sublet the whole or any part of the demised premises except with the approval of the board; provided that prior to the approval, the board shall have the right to review and approve the rent to be charged to the sublessee; provided further that the board shall have the right to review and, if necessary, revise the rent of the demised premises based upon the rental rate charged to the sublessee and provided that the rent may not be revised downward;
- (7) The lease shall be for a specific use or uses and shall not include waste lands, unless it is impractical to provide otherwise;
- (8) Mineral and metallic rights and surface and ground water shall be reserved to the State; and
- (9) No lease of public lands, including submerged lands, nor any extension of any such lease, shall be issued by the State to any person to construct, use, or maintain a sunbathing or swimming pier or to use the lands for such purposes, unless such lease, or any extension thereof, contains provisions permitting the general public to use the pier facilities on the public lands and requiring that a sign or signs be placed on the pier, clearly visible to the public, which indicates the public's right to the use of [such] the pier. The board [shall], at the earliest practicable date, and where legally possible, shall cause all existing leases to be amended to conform to this paragraph. The term "lease", for the

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purposes of this paragraph, includes month to month rental agreements and similar tenancies.

(b) The board [may], from time to time, upon the issuance or during the term of any intensive agricultural, aquaculture, mariculture, or special livestock lease may (1) modify or eliminate any of the foregoing restrictions, (2) extend or modify the fixed rental period of the lease, or (3) extend the term of the lease to the extent necessary to qualify the lease for mortgage lending or guaranty purposes with the Federal Housing Administration, Federal National Mortgage Association, Veterans Administration, Small Business Administration, Farmers Home Administration, Federal Land Bank of Berkeley, Federal Intermediate Credit Bank of Berkeley, Berkeley Bank for Cooperatives, or any other federal mortgage lending agency qualified to do business in the State, and their respective successors and assigns or to qualify the lessee for any state or private lending institution loan, private loan guaranteed by the State, or any loan in which the State and any private lender participates; provided that the private lender shall be qualified to do business in the State; provided further that the approval of any extension shall be subject to the following:

- (1) The demised premises have been used substantially for the purpose for which they were originally leased;
- (2) The aggregate of the initial term and any extension granted shall not be for more than fifty-five years;
- (3) The rental shall not be less than the rental for the preceding term; and
- (4) The rules of the board, setting forth any additional terms and conditions which shall insure and promote the purposes of the demised lands.

(c) The board at any time during the term of any intensive agricultural, aquaculture, or mariculture lease and when justified by sound agricultural practices and economic or other circumstances, may permit an alternative agricultural, aquaculture, or mariculture use or uses for any portion or portions of the land demised thereunder. As a condition to permitting alternative uses, the board may require such other modifications, including rental adjustments or changes in the lease as may be necessary to effect or accommodate the alternative use or uses. An alternative use or uses may be allowed by the board upon:

- (1) The application of the lessee;
- (2) Consent of each holder of record having a security interest in the leasehold; and
- (3) A finding by the board that the alternative use or uses are in the public interest.”

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

SECTION 4. This Act shall take effect upon its approval and shall apply to any intensive agricultural, aquaculture, and mariculture lease then in effect and thereafter issued.

(Approved June 1, 1988.)

ACT 160

H.B. NO. 2201

A Bill for an Act Relating to Health.

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

SECTION 1. Genetically modified organisms are organisms resulting from

the use of genetic engineering or conventional breeding. Evidence has shown that biotechnologies are powerful in their ability to genetically modify organisms. Such technologies can be used in virtually all industrial processes using living organisms, such as in the areas of pharmaceuticals, food processing, agriculture, and health care.

It is now possible to transfer genes from any organism into any other organism. Such transformations may pose a number of threats, including but not necessarily limited to, deleterious impacts on the environment, displacement of species, increased opportunities for disease, and hazards to agricultural livestock and crops.

Hawaii is noted for its diversity of species and fragility of ecosystems. The legislature finds that it is necessary to be cognizant of research and development activities which may release genetically modified organisms into Hawaii's environment. Once released, it may be costly or impossible to remove these organisms from the environment.

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

"§321- Genetically modified organisms. Any applicant to any federal agency for any permit for or approval of any bioproduct, field testing of genetically modified organisms, or environmental impact assessment of genetically modified organisms shall submit one copy of that application to the department, at the same time that the application is submitted to the federal agency."

SECTION 3. New statutory material is underscored.¹

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

(Approved June 1, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 161

H.B. NO. 2280

A Bill for an Act Relating to Acupuncture.

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

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

"§26H-4 Repeal dates. (a) The following chapters are hereby repealed effective December 31, 1988:

- (1) Chapter 465 (Board of Psychology)
- (2) Chapter 468E (Board of Speech Pathology and Audiology)
- (3) Chapter 468K (Travel Agencies)
- (4) Chapter 373 (Commercial Employment Agencies)
- (5) Chapter 442 (Board of Chiropractic Examiners)
- (6) Chapter 448 (Board of Dental Examiners)

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- [(7) Chapter 436E (Board of Acupuncture)]
- (b) The following chapters are hereby repealed effective December 31, 1989:
 - (1) Chapter 444 (Contractors License Board)
 - (2) Chapter 448E (Board of Electricians and Plumbers)
 - (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
 - (4) Chapter 466 (Board of Public Accountancy)
 - (5) Chapter 467 (Real Estate Commission)
 - (6) Chapter 439 (Board of Cosmetology)
 - (7) Chapter 454 (Mortgage Brokers and Solicitors)
 - (8) Chapter 454D (Mortgage and Collection Servicing Agents)
- (c) The following chapters are hereby repealed effective December 31, 1990:
 - (1) Chapter 447 (Dental Hygienists)
 - (2) Chapter 453 (Board of Medical Examiners)
 - (3) Chapter 457 (Board of Nursing)
 - (4) Chapter 458 (Board of Dispensing Opticians)
 - (5) Chapter 460J (Pest Control Board)
 - (6) Chapter 462A (Pilotage)
 - (7) Chapter 438 (Board of Barbers)
- (d) The following chapters are hereby repealed effective December 31, 1991:
 - (1) Chapter 448H (Elevator Mechanics Licensing Board)
 - (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
 - (3) Chapter 457B (Board of Examiners of Nursing Home Administrators)
 - (4) Chapter 460 (Board of Osteopathic Examiners)
 - (5) Chapter 461 (Board of Pharmacy)
 - (6) Chapter 461J (Board of Physical Therapy)
 - (7) Chapter 463E (Podiatry)
- (e) The following chapters are hereby repealed effective December 31, 1992:
 - (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
 - (2) Chapter 437B (Motor Vehicle Repair Industry Board)
 - (3) Chapter 440 (Boxing Commission)
 - (4) Chapter 436E (Board of Acupuncture)
- (f) The following chapters are hereby repealed effective December 31, 1993:
 - (1) Chapter 441 (Cemetery and Funeral Trusts)
 - (2) Chapter 443B (Collection Agencies)
 - (3) Chapter 452 (Board of Massage)
 - (4) Chapter 455 (Board of Examiners in Naturopathy)
 - (5) Chapter 459 (Board of Examiners in Optometry)
- (g) The following chapters are hereby repealed effective December 31, 1997:
 - (1) Chapter 463 (Board of Private Detectives and Guards)
 - (2) Chapter 471 (Board of Veterinary Examiners)."

SECTION 2. The Board of Acupuncture shall develop academic standards for the use of academic designations in the practice of acupuncture. The standards shall include provisions that a Ph.D. for acupuncture shall not be awarded unless recognized by a regionally accredited review body. If a Ph.D. is awarded it will be to designate a non-practitioner of acupuncture as opposed to a doctor of acupuncture degree which would be for practitioners of acupuncture. These standards shall be adopted by the Board by July 1, 1991, after which such academic standards shall be reviewed by the Office of the Legislative Auditor who will report to the Legislature twenty days before the convening of the 1992 Regular Session.

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

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

(Approved June 1, 1988.)

ACT 162

H.B. NO. 2346

A Bill for an Act Relating to Housing.

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

SECTION 1. Section 445-94, Hawaii Revised Statutes, is amended to read as follows:

“§445-94 Certificates. (a) No license shall be issued for a lodging or tenement house, group home, group residence, group living arrangement, hotel, boardinghouse, or restaurant, until the applicant secures from the department of health and presents to the treasurer a certificate setting forth that an agent of the department has examined the building or buildings[, proposed to be used for such purposes], with a description [thereof] sufficient to identify and locate the same[;], and that the same are in good sanitary condition [and suitable to be used for such purposes; and, if the application is for a license for a lodging or tenement house, group home, group residence, or group living arrangement, hotel, or boardinghouse, stating the number of persons who, by law, can be lodged therein].

(b) No initial license shall be issued for a lodging or tenement house, group home, group residence, group living arrangement, hotel, boardinghouse, or restaurant, until the applicant secures a clearance from the appropriate county agency responsible for ensuring compliance with county building and zoning codes and presents to the treasurer a certificate setting forth that an agent of the agency has examined the building or buildings, proposed to be used for such purposes, with a description [thereof] sufficient to identify and locate the same; and that the same are in compliance with the building and zoning codes.”

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

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

(Approved June 1, 1988.)

ACT 163

H.B. NO. 2390

A Bill for an Act Relating to the General Excise Tax.

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

SECTION 1. Section 237-26, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) For purposes of this section, “scientific work” is work involving primarily the research and development for, or the design, manufacture, instrumentation, installation, maintenance, or operation of [an electronic, test range, aerospace, oceanographic, geophysical] aerospace, agricultural, astronomical, biomedical, electronic, geophysical, oceanographic, test range, or other scientific

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facilities. Maintenance or operation, for purposes of this section, shall include housekeeping functions in providing certain nonscientific logistic and support services."

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

SECTION 3. This Act shall take effect on January 1, 1989.

(Approved June 1, 1988.)

ACT 164

H.B. NO. 2706

A Bill for an Act Relating to the Molokai Irrigation and Water Utilization Project.

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

SECTION 1. Section 175-2.5, Hawaii Revised Statutes, is amended to read as follows:

"[§175-2.5] Molokai irrigation system water users advisory board; establishment; meetings. (a) There is established a Molokai irrigation system water users advisory board, to be appointed by the governor under section 26-34. The advisory board shall consist of five members, as follows:

- (1) A homestead farmer user on Molokai;
- (2) A nonhomestead farmer user on Molokai;
- (3) The president of the Molokai [county] farm bureau;
- (4) The president of Hikiola Cooperative, Inc.; and
- (5) The president of the Molokai-Lanai soil and water conservation district.

The members of the advisory board shall serve without compensation, but shall be entitled to reimbursement for necessary expenses while attending meetings and while in the discharge of their duties.

(b) The advisory board shall meet with the department of land and natural resources division of water and land development at least six times each year. The meetings shall be held on Molokai, whenever possible.

The advisory board shall advise the division on matters of concern to the users of the system, and shall obtain from the division information regarding the system, including, but not limited to, a long-range plan for the system."

SECTION 2. Statutory material to be repealed is bracketed.

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

(Approved June 1, 1988.)

ACT 165

H.B. NO. 3151

A Bill for an Act Relating to HIV Antibody Testing.

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

SECTION 1. Purpose. The legislature finds that in light of the Congressional Office of Technology Assessment's October 1987 report discussing the lack

of enforced quality assurance standards in laboratories performing HIV Antibody testing and the consequent high number of false positive test results from such laboratories, it is the policy of the State that nationally accepted standards be followed at all HIV antibody testing facilities in the State of Hawaii.

SECTION 2. Section 325, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§325- Quality assurance standards for HIV antibody testing. (a) All laboratories performing screening and diagnostic tests for the presence of the antibody to HIV (Human Immunodeficiency Virus) shall follow the recommended protocols as set forth below. Any initially reactive ELISA (Enzyme-linked Immunosorbant Assay) test must be confirmed by a second ELISA. Any sera yielding reactive results to both ELISA tests must have a supplemental test performed such as a Western Blot, an IFA (Immunofluorescence Assay), or an antigen detection assay; provided that these standards may be superseded by rules adopted by the department pursuant to chapter 91.

(b) Any laboratory performing tests for the presence of HIV may be required by the department of health to refer a sample from any specimen yielding a reactive result to the department for the purpose of supplemental testing of some or all samples for quality assurance purposes. The department may specify the information which shall accompany the specimen for epidemiological purposes; provided that the information shall not include any personal identifiers.

(c) The penalty for any violation of this section shall be as specified in section 325-14."

SECTION 3. New statutory material is underscored.¹

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

(Approved June 1, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

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H.B. NO. 3324

A Bill for an Act Relating to Foreclosures on Condominium and Cooperative Apartments.

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

SECTION 1. Section 667-5.5, Hawaii Revised Statutes, is amended to read as follows:

"[§667-5.5] Foreclosure notice. Notwithstanding any law or agreement to the contrary, any person who forecloses on a condominium apartment or an apartment in a cooperative housing project shall notify, by way of registered or certified mail, the board of directors of the association of apartment owners of the condominium or the board of directors of the cooperative housing project in which the apartment to be foreclosed is located, of the foreclosure at the time foreclosure proceedings are begun. The notice, at a minimum, shall identify the condominium apartment or cooperative apartment which is the subject of the foreclosure and identify the name or names of the person or persons bringing foreclosure proceed-

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ings. This section shall not apply when the condominium association or cooperative housing corporation is a party in a foreclosure action. This section shall not affect civil proceedings against parties other than the association of apartment owners[.] or cooperative housing corporation."

SECTION 2. Statutory material is bracketed.¹ New statutory material is underscored.

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

(Approved June 1, 1988.)

Note

1. So in original.

ACT 167

H.B. NO. 1361

A Bill for an Act Relating to the General Excise Tax.

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

SECTION 1. Section 237-18, Hawaii Revised Statutes, is amended to read as follows:

“§237-18 Further provisions as to application of tax. (a) Where a coin operated device produces gross income which is divided between the owner or operator of the device, on the one hand, and the owner or operator of the premises where the device is located, on the other hand, the tax imposed by this chapter shall apply to each such person with respect to the person's portion of the proceeds, and no more.

(b) Where gate receipts or other admissions are divided between the person furnishing or producing a play, concert, lecture, athletic event, or similar spectacle (including any motion picture showing) on the one hand, and a promoter (including any proprietor or other operator of a motion picture house) offering the spectacle to the public, on the other hand, the tax imposed by this chapter [shall], if the promoter is subject to the tax imposed by this chapter, shall apply only to the promoter measured by the whole of the proceeds, and the promoter shall be authorized to deduct and withhold from the portion of the proceeds payable to the person furnishing or producing the spectacle the amount of the tax payable by the person upon such portion. No tax shall apply to a promoter with respect to such portion of the proceeds as is payable to a person furnishing or producing the spectacle, who is exempted by section 237-23 from taxation upon such activity.

(c) Where, through the activity of a person taxable under section 237-13(6), a product has been milled, processed, or otherwise manufactured upon the order of another taxpayer who is a manufacturer taxable upon the value of the entire manufactured products, which consists in part of the value of the services taxable under section 237-13(6), so much gross income as is derived from the rendering of the services shall be subjected to tax on the person rendering the services at the rate of one-half of one per cent, and the value of the entire product shall be included in the measure of the tax imposed on the other taxpayer as elsewhere provided.

(d) Where, through the activity of a person taxable under section 237-13(6), there have been rendered to a cane planter services consisting in the harvesting or hauling of the cane, or consisting in road maintenance, under a contract between the person rendering the services and the cane planter, covering the services and

also the milling of the sugar, the services of harvesting and hauling the cane and road maintenance shall be treated the same as the service of milling the cane, as provided by subsection (c), and the value of the entire product, manufactured or sold for the cane planter under the contract, shall be included in the measure of the tax imposed on the person as elsewhere provided.

(e) Where insurance agents, including general agents, subagents, or solicitors, who are not employees and are licensed pursuant to chapter 431, or real estate brokers or salesmen, who are not employees and are licensed pursuant to chapter 467, produce commissions which are divided between such general agents, subagents, or solicitors, or between such real estate brokers or salesmen, as the case may be, the tax levied under section 237-13(6) or under section 237-16 as to real estate brokers or salesmen, or under section 237-13(7) as to insurance general agents, subagents, or solicitors shall apply to each such person with respect to the person's portion of the commissions, and no more.

(f) Where tourism related services are furnished through arrangements made by a travel agency or tour packager and the gross income is divided between the provider of the services on the one hand and the travel agency or tour packager on the other hand, the tax imposed by this chapter shall apply to each such person with respect to such person's respective portion of the proceeds, and no more.

As used in this subsection "tourism related services" means catamaran cruises, canoe rides, dinner cruises, and sightseeing tours not subject to chapter 239.

(g) Where transient accommodations are furnished through arrangements made by a travel agency or tour packager at noncommissioned negotiated contract rates and the gross income is divided between the operator of transient accommodations on the one hand and the travel agency or tour packager on the other hand, the tax imposed by this chapter shall apply to each such person with respect to such person's respective portion of the proceeds, and no more.

As used in this subsection, the words "transient accommodations" and "operator" shall be defined in the same manner as they are defined in section 237D-1.

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

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

(Approved June 6, 1988.)

A Bill for an Act Relating to International Services.

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

SECTION 1. The legislature finds that a major problem facing local small- and medium-sized companies seeking to compete in world markets is the lack of professional, diplomatic, and cultural counseling to potential and existing exporters and other persons wishing to do business in those markets. Similarly, foreign companies and persons who wish to do business in Hawaii cannot now go to a centralized agency to obtain up-to-date information on business, government, politics, resource management, and other concerns of international business persons in Hawaii.

The legislature further finds that the State and counties, if given appropriate

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assistance, could do a better job of hosting visiting foreign dignitaries, coordinating and supporting the various international programs in the State, and providing necessary services to foster international trade and relations.

The purpose of this Act is to conduct a study and develop a plan to accomplish these objectives.

SECTION 2. The office of state planning shall conduct a study of methods to strengthen Hawaii's participation in international activities and develop a strategic plan.

The study shall provide specific recommendations to coordinate international activities of the State and to establish a central agency in the State government for international activities in Hawaii including recommendations:

- (1) For trade and exchange programs with sister-states;
- (2) For a protocol services program including:
 - (A) Oversight of sister-state activities;
 - (B) Maintenance of a list of foreign dignitaries visiting this State;
 - (C) A hosting program for visiting dignitaries;
 - (D) Briefings on business, government, politics, resource management, and other general information about Hawaii for visiting dignitaries;
 - (E) Briefings on business, government, politics, resource management, and other topics for Hawaii state and county officials with respect to the foreign countries they will visit;
 - (F) Debriefings of Hawaii state and county officials returning to Hawaii from foreign countries; and
 - (G) Briefings on customs, political and economic systems, and other pertinent matters for outbound business people, educators, students, and others from Hawaii with respect to the foreign countries they will visit;
- (3) For placement of the protocol program and the trade and exchange programs with sister-states in the appropriate agency or agencies;
- (4) Of the appropriate agency in which to establish a clearinghouse for information on international business development work by the University of Hawaii, other institutions of higher learning, and federal agencies located in Hawaii;
- (5) For provision of matching funds to nonprofit organizations in Hawaii promoting internationalism.

The study shall include an analysis of the legislative and financial requirements to implement the recommendations of the study.

The strategic plan for the expansion of international business activity in the state shall include:

- (1) Identification of resources and activities in Hawaii which are of interest and importance to Pacific and Asian countries;
- (2) An assessment of the interest or need for Hawaii's resources in the Pacific region;
- (3) An assessment of the costs and benefits to Hawaii of providing the resources or activities identified in the plan, including an analysis of Hawaii's competitive advantages and disadvantages;
- (4) A review of the effectiveness of publications and other sources of information about Hawaii produced and distributed by the State or counties to foreign investors and prospective business interests; and

- (5) Evaluation of the preparation of information for dignitaries to promote interest in inventing or doing business in Hawaii.

SECTION 3. There is established within the office of state planning an advisory council for international services which shall assist the office in the preparation of the study and the development of the strategic plan. The advisory council shall consist of twelve members. Five members shall be appointed by the governor and two each shall be appointed by the speaker of the house and the president of the senate. At least five of these nine appointees shall be representatives of Hawaii-based businesses or organizations with international interests. Additionally, the director of business and economic development and the president of the University of Hawaii, or their designated representatives, shall be ex officio voting members of the council; and the president of the East-West Center, or the president's designated representative, shall be invited to serve as an ex officio voting member.

Any vacancy on the council shall be filled in the same manner in which the original position was filled. The council shall elect a chairperson and vice-chairperson from among its members. A majority of the members of the council shall constitute a quorum.

Members of the council shall serve without compensation, but shall be reimbursed for travel and other necessary expenses incurred in the performance of their duties.

The council shall cease operations on June 1, 1989.

SECTION 4. The office of state planning and the advisory council in conducting this study shall convene a conference involving interested members of the community. The conference shall be to review and discuss drafts of the strategic plan.

SECTION 5. The office of state planning shall submit its study and strategic plan to the legislature no later than twenty days prior to the convening of the Regular Session of 1989.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$75,000, or so much thereof as may be necessary for fiscal year 1988-1989, to carry out the purposes of this Act, to be divided in the following manner:

Study	\$25,000
Administrative support	25,000
Conference	10,000
Protocol activities, including the development of a program of response to ceremonial exchanges with representatives of foreign nations	15,000.

SECTION 7. The sums appropriated shall be expended by the office of the governor for the purposes of this Act.

SECTION 8. This Act shall take effect on July 1, 1988.

(Approved June 6, 1988.)

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ACT 169

H.B. NO. 2048

A Bill for an Act Relating to Smoking.

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

SECTION 1. Section 328K-1, Hawaii Revised Statutes, is amended by adding four new definitions to be appropriately inserted and to read as follows:

“‘Bar’’ means a place devoted to the serving of alcoholic beverages for on-site consumption by patrons and where the service of food is only incidental to the consumption of such beverages. A food service establishment may contain a bar, but the term bar shall not include the dining area of a food service establishment.

“Dining area” means a location within a restaurant or food service establishment where meals are served.

“Incidental” means less than one third of gross sales of alcoholic beverages as opposed to food sales.

“Meals” does not include snacks, pupus, hors d’oeuvres, or appetizers.”

SECTION 2. New statutory material is underscored.

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

(Approved June 6, 1988.)

ACT 170

H.B. NO. 2253

A Bill for an Act Relating to School Vandalism.

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

SECTION 1. Section 298-5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) If the principal, upon a hearing on the charges, has reasonable cause to believe that the pupil is responsible for the loss, destruction, breakage, or damage of school books, equipment, or supplies, the principal shall design a restitution program which shall be submitted to the pupil and the pupil’s parents or guardian for agreement in writing.

If restitution is made in this fashion, then [all records and documents regarding the charges and hearing shall be destroyed. No] no information about the charges, the hearing, and the actions taken shall be communicated to any person not directly involved in the proceedings.

If the pupil and parent or guardian do not agree with the determination made by the principal, the principal shall [preserve all the records and documents regarding the charges and hearing and shall] report to the district superintendent the determination and the findings made by the principal, including all the records and documents regarding the investigation, for any further action.”

SECTION 2. Section 298-27, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) At the conference, the principal of the school in which the vandalism occurred shall present the findings of the investigation and the requirements of restitution to the pupil and parents or guardian.

If the pupil and the parents or guardian agree with the findings of the principal and the manner in which restitution is to be made, the principal and the pupil and parent or guardian shall execute a written agreement which shall specify the manner in which restitution is to be made.

Agreements shall be made only for damages that do not exceed \$3,500.

If restitution is made in this fashion, then [all records and documents regarding the investigation and conference shall be destroyed. No] no information about the investigation, conference and the actions taken shall be communicated to any person not directly involved in the proceedings.

If the pupil and parent or guardian do not agree with the findings made by the principal, the principal shall [preserve all the records and documents regarding the investigation and conference and shall] report the findings, including all the records and documents regarding the investigation and conference, to the district superintendent, who shall review the findings and may refer the matter to the attorney general for any further action pursuant to section 577-3."

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

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

(Approved June 6, 1988.)

ACT 171

H.B. NO. 3348

A Bill for an Act Relating to Probate.

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

SECTION 1. Section 560:3-1201, Hawaii Revised Statutes, is amended to read as follows:

"§560:3-1201 Collection of personal property by affidavit. Any person indebted to the decedent or having possession of tangible personal property or an instrument evidencing a debt, obligation, stock, or chose in action belonging to the decedent shall make payment of the indebtedness or deliver the tangible personal property or an instrument evidencing a debt, obligation, stock, or chose in action to a person claiming to be the successor of the decedent upon being presented a death certificate for the decedent and an affidavit made by or on behalf of the successor stating that:

- (1) The net value of the decedent's estate in this State does not exceed [\$1,000;] \$5,000;
- (2) No application or petition for the appointment of a personal representative is pending or has been granted in this State; and
- (3) The claiming successor is entitled to payment or delivery of the property and explaining the relationship of the claiming successor to the decedent."

SECTION 2. Section 560:3-1212, Hawaii Revised Statutes, is amended to read as follows:

"§560:3-1212 Estates of persons[,] leaving no known relatives. Every coroner[,] or medical examiner[,] who is called to investigate the death of any person leaving no known spouse, issue, parent, grandparent, or issue of grandparents

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over the age of majority in the State, shall take immediate charge of such decedent's personal effects and if in the discretion of the coroner the value of such personal [effect] effects is in excess of [\$100] \$1,000, forthwith deliver them to the clerk of the court of the judicial circuit in which such decedent died.

If after ten days no person appears, competent to initiate appropriate probate proceedings, the clerk shall administer the estate pursuant to the provisions of this Part 12; provided that if such decedent's estate be of a value exceeding \$20,000, the clerk shall notify the judge of such circuit having charge of the probate calendar, and shall petition for the appointment of a personal representative of such estate other than the clerk. In the meantime the clerk may take such steps as may be appropriate to preserve and conserve the real and personal property of the decedent. All expenses in connection with the taking possession, care, and conservation of the property and with such proceedings shall be proper charges against the estate of the decedent. The corporation counsel or county attorney of each county shall advise, assist, and represent as far as necessary any of such officers in the performance of any act or the institution or prosecution of any proceeding required by this section.

If such decedent's estate be of a value not exceeding [\$100] \$1,000 and such decedent has no known relatives or whose relatives have failed to indicate any means of disposition of such estate, then the coroner[,] or medical examiner[,] having custody of such property shall dispose of such property in an appropriate manner, which may be any one of the following or a combination thereof:

- (1) Where the estate consists only of money and is not in excess of [\$100] \$1,000 and expenditures have been made in connection with such death, to reimburse the appropriate city and/or county office [which] that made the disbursement to defray said expenses;
- (2) Where the estate consists of cash or personal belongings of monetary value, or both¹ not exceeding [\$100] \$1,000, to liquidate the personal belongings and apply the proceeds, together with the cash, if the total does not exceed [\$100] \$1,000, in accordance with paragraph (1);
- (3) Where the assets in the estate are of no monetary value (unsaleable) and in the best judgment and discretion of the coroner or medical examiner can be used by some charitable institution, to donate the assets to whatever charitable institution is willing and able to pick up the assets in question;
- (4) Where the assets have no value whatsoever or are in such condition that, in the best judgment and discretion of the coroner or medical examiner, a charitable institution cannot use the properties, or will not receive the properties, to destroy the same in any manner the coroner or medical examiner sees fit; and
- (5) If under paragraphs (1) and (2), there are assets remaining, then the coroner or medical examiner shall forthwith forward the same to the state director of finance for disposition as provided in chapter 523A.”

SECTION 3. Section 560:3-1213, Hawaii Revised Statutes, is repealed.

SECTION 4. This Act does not apply to any proceedings, whether currently pending or not, that were initiated prior to its effective date.

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.²

SECTION 6. This Act shall take effect on July 1, 1988.

(Approved June 6, 1988.)

Notes

1. Prior to amendment, “,” appeared here.
2. Edited pursuant to HRS §23G-16.5.

ACT 172

H.B. NO. 3457

A Bill for an Act Relating to Oil.

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

SECTION 1. Chapter 342, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of “permit” in Section 342-1 to read:

“Permit” means written authorization from the director to discharge waste or to construct, modify, or operate any air pollution source, water pollution source, excessive noise source, [or] solid waste disposal system[.], or used oil management system. A permit authorizes the grantee to cause, emit or discharge waste or pollution in a manner or amount, or to do any act, not forbidden by this chapter, or by rules and regulations promulgated under this chapter, but requiring review by the department.”

2. By amending Part VII to read:

“[[PART VII.]] USED OIL TRANSPORT, RECYCLING AND DISPOSAL

[[§342-81[]] Definitions. As used in this part, unless the context otherwise requires:

“Department” means the department of health.

“Director” means the director of health or the director’s duly authorized agent.]

“Recycled [used] oil” means used oil that is reused or prepared for reuse as a petroleum product.

“Specification fuel” means recycled [used] oil which meets specific standards that are set by the director. These standards, at a minimum, shall comply with those set by the federal Environmental Protection Agency for specification fuel.

“Used oil” means a petroleum-based oil which through use, storage, or handling has become unsuitable for its original purpose due to the presence of impurities or loss of original properties.

“Used oil transporter” means any person who transports more than five hundred gallons of used oil annually.

[[§342-82] Exemptions. The following persons and organizations are exempt from this part:

- (1) Second-time transporters, marketers and burners of specification fuel; and
- (2) Electric public utilities and other facilities which use used oil as specification fuel in industrial boilers; provided that the used oil is generated by the facility and that the requirements established under section 342-22 are complied with.]

[[§342-83[]] Prohibited acts. (a) No new oil, used oil, or recycled oil shall be discharged into sewers, drainage systems, surface or ground waters, watercourses, or marine waters.

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[(b) No used oil transporter shall collect, transport, transfer, temporarily store, or market used oil unless the person possesses a permit to transport issued under this part.

(c)] (b) No used oil transporter shall deliver used oil to any person with the knowledge that the oil will be improperly disposed of in violation of this part.

[(d) No person shall recycle, market, burn, or accept used oil for final disposal without first obtaining authorization from the department.

(e)] (c) No new oil, used oil, or recycled oil shall be discharged onto the ground [for dust suppression] without prior written approval from the department and the landowner.

(d) No used oil or recycled oil shall be burned as specification fuel without an analysis or other written information documenting that the used oil or recycled oil meets the standards for specification fuel as set forth by the director.

[[§342-84]] **Used oil transport vehicles; identification required.** The department shall require used oil transporters to identify [such] vehicles used for the transport of used oil.

[[§342-85]] **Recordkeeping, sampling, and testing requirements.** (a) Transporters, marketers, recyclers, and burners of used oil shall keep a copy of each transaction or invoice received.

(b) Any person who sells used oil as specification fuel shall keep a copy of each analysis performed or other written information documenting that the used oil meets the standards for specification fuel as set forth by the director.

(c) The director may require any person who generates and burns the person's own used oil as specification fuel to keep a copy of each analysis performed or other written information documenting that the used oil meets the standards for specification fuel as set forth by the director.

(d) The persons described in subsections (a), (b), and (c) shall be required to maintain records relating to used oil which shall be retained for a period of three years and made available to the director upon request.

[(a)] (e) Each used oil transporter shall provide a signed voucher to each person surrendering or accepting the used oil when used oil is picked up or delivered[.] and shall keep a record of each voucher. [The voucher, as a minimum, shall show the quantity of used oil, name and address of the person surrendering or accepting the used oil, pickup location, and the proposed or actual final destination.

(b) Records shall be maintained for three years.

(c) First-time marketers and burners of specification fuel shall maintain analyses of recycled used oil which initially defined the material as specification fuel. A copy of the analyses of the specification fuel shall be delivered with the invoice to the second-time transporter, marketer and burner of the specification fuel.

(d)] (f) The department may require sampling, testing, and recordkeeping and the [submittal] submission of records for persons who generate, transport, market, recycle, or burn[, or accept] used oil or specification fuel or accept used oil for final disposal.

[[§342-86]] **Fees.** The director may establish reasonable fees for the issuance of permits and variances to cover the cost of issuance thereof. The fees shall be deposited to the credit of the general fund.

[[§342-87]] **Inspection of premises; examination of records.** The director may enter premises to inspect any facility, storage tank, or vehicle or examine the records required under this part.

[[§342-88]] Cooperation with other agencies. The department shall coordinate its activities and functions under this part with the department of [planning] business and economic development and other state agencies to avoid duplication in reporting and information gathering.

[[§342-89]] Rules. The director shall adopt rules in accordance with chapter 91 necessary to carry out this part."

3. By adding a new section to be appropriately designated to read:

"§342- Permit required. No person shall transport, market, or recycle used oil except specification fuel, without first obtaining a permit from the department. The director may require any person who generates and burns their own used oil as specification fuel to notify the department of their activity."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

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

(Approved June 6, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 173

H.B. NO. 3518

A Bill for an Act Relating to the General Excise Taxes.

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

SECTION 1. Section 237-29.5, Hawaii Revised Statutes, is amended to read as follows:

"[[§237-29.5]] Exemption for sales of tangible personal property shipped out of the State. (a) There shall be exempted from, and excluded from the measure of, the taxes imposed by this chapter all of the value or gross proceeds arising from the manufacture, production, or sale of tangible personal property:

(1) Shipped by the manufacturer, producer, or seller to a point outside the State where the property is resold or otherwise consumed or used outside the State in the purchaser's or the taxpayer's business; or
 (2) The sale of which is exempt under section 237-24(18).

(b) For the purposes of this section, the manufacturer, producer, or seller shall take from the purchaser, a certificate, in such form as the department shall prescribe, certifying that the tangible personal property purchased is to be resold or otherwise consumed or used outside the State in the purchaser's business. Any purchaser who shall furnish such a certificate shall be obligated to pay to the seller, upon demand, if the property purchased is not resold or otherwise consumed or used outside the State in the purchaser's business, the amount of the additional tax which by reason thereof is imposed upon the seller.

[(c) This section shall not affect the application of section 237-13(2)(A).]"

SECTION 2. Section 237-23, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) This chapter shall not apply to the following persons:

- (1) Banks taxable under chapter 241;
- (2) Public service companies (as that term is defined in section 239-2), with respect to the gross income, either actual gross income or gross income estimated and adjusted, which is included in the measure of the tax imposed by chapter 239;
- (3) Public utilities owned and operated by the State or any county or other political subdivision thereof;
- (4) Insurance companies which pay the State a tax upon their gross premiums under chapter 431;
- (5) Fraternal benefit societies, orders, or associations, operating under the lodge system, or for the exclusive benefit of the members of the fraternity itself, operating under the lodge system, and providing for the payment of death, sick, accident, prepaid legal services, or other benefits to the members of such societies, orders, or associations, and to their dependents;
- (6) Corporations, associations, trusts, or societies organized and operated exclusively for religious, charitable, scientific, or educational purposes, as well as that of operating senior citizens housing facilities qualifying for a loan under the laws of the United States as authorized by section 202 of the Housing Act of 1959, as amended by the Housing Act of 1961, the Senior Citizens Housing Act of 1962, the Housing Act of 1964, and the Housing and Urban Development Act of 1965 as well as that of operating a prepaid legal services plan;
- (7) Business leagues, chambers of commerce, boards of trade, civic leagues, and organizations operated exclusively for the benefit of the community and for the promotion of social welfare which shall include the operation of a prepaid legal service plan, and from which no profit inures to the benefit of any private stockholder or individual;
- (8) Hospitals, infirmaries, and sanitaria;
- (9) Cooperative associations [now or hereafter] incorporated under [and pursuant to] chapter 421 or 422 [and] or Code section 521 cooperatives which fully meet the requirements of section 421-23 or [section] 422-33 [(), except Code section 521 cooperatives need not be organized in Hawaii; provided that [the]:
 - (A) The exemption shall apply only to the gross income derived from [its] activities which are pursuant to purposes and powers authorized by chapter 421 or 422[; and that the], except those provisions pertaining to or requiring corporate organization in Hawaii do not apply to Code section 521 cooperatives;
 - (B) The exemption shall not relieve any person who receives any proceeds of sale from the association of the duty of returning and paying the tax on the total gross proceeds of the sales on account of which the payment was made, in the same amount and at the same rate as would apply thereto had the sales been made directly by the person, and all such persons shall be so taxable[]; and
 - (C) As used in this paragraph, "section 521 cooperatives" mean associations which qualify as a cooperative under section 521 (with respect to exemption of farmers' cooperatives from tax) of the Internal Revenue Code of 1986, as amended;
- (10) Building and loan associations taxable under chapter 241;
- (11) Persons affected with Hansen's disease and kokuas, with respect to business within the county of Kalawao;

- (12) Corporations, companies, associations, or trusts organized for the establishment and conduct of cemeteries no part of the net earnings of which inures to the financial benefit of any private stockholder or individual (provided that the exemption shall apply only to the activities of such persons in the conduct of cemeteries and not to any activity the primary purpose of which is to produce income, even though the income is to be used for or in the furtherance of the exempt activities of such persons);
- (13) Industrial loan companies taxable under chapter 241; provided that the exemption shall apply only to the income from the "engaging in the business of an industrial loan company" as defined in section 408-2;
- (14) Development companies taxable under chapter 241; provided that the exemption shall apply only to gross income derived as interest on loans made to borrowers as provided by Title V of the federal Small Business Investment Act of 1958, Public Law 699, as amended;
- (15) Nonprofit shippers associations operating under part 296 of the Civil Aeronautics Board Economic Regulations;
- (16) Small business investment companies taxable under chapter 241; provided that the exemption shall apply only to the income derived from activities engaged in as provided by the federal Small Business Investment Act of 1958, Public Law 699, as amended; provided further that the exemption shall not apply to consulting and advisory services engaged in under the first sentence of section 308(b) of Public Law 699."

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

SECTION 4. This Act, upon its approval, shall take effect retroactive to January 1, 1988.

(Approved June 6, 1988.)

ACT 174

H.B. NO. 3567

A Bill for an Act Relating to the State Tort Liability Act.

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

SECTION 1. Chapter 662, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§662- Benefits and obligations of parents of minor employees. All benefits and obligations conferred or imposed upon employees of the State by this chapter are conferred or imposed upon the parents or legal guardians of the employee when the employee is a minor."

SECTION 2. New statutory material is underscored.¹

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

(Approved June 6, 1988.)

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Note

1. Edited pursuant to HRS §23G-16.5.

ACT 175

H.B. NO. 3515

A Bill for an Act Relating to the General Excise Tax.

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

SECTION 1. Chapter 237, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§237- Related entities; common paymaster; certain exempt transactions. (a) This chapter shall not apply to amounts received, charged, or attributable to services furnished by one related entity to another related entity or to imputed or stated interest attributable to loans, advances, or use of capital between related entities.

As used in this subsection:

“Related entities” mean:

- (1) An affiliated group of corporations within the meaning of section 1504 (with respect to affiliated group defined) of the federal Internal Revenue Code of 1986, as amended;
- (2) A controlled group of corporations within the meaning of section 1563 (with respect to definitions and special rules) of the federal Internal Revenue Code of 1986, as amended; and
- (3) Those entities connected through ownership of at least eighty per cent of the total value of each such entity, including partnerships, associations, trusts, S corporations, nonprofit corporations, or any other group or combination of these or other tax entities acting as a business unit;

whether or not the entity is located within or without the State or licensed under this chapter.

“Services” mean legal and accounting services and those managerial and administrative services performed by an employee, officer, partner, trustee, or sole proprietor in the person’s capacity as an employee, officer, partner, trustee, or sole proprietor of one of the related entities and shall include overhead costs attributable to those services.

(b) This chapter shall not apply to amounts received by common paymasters which are disbursed as remuneration to employees of two or more related corporations where the common paymaster is making such remunerations on behalf of such corporations. Such amounts received or disbursed by the common paymaster shall include payments of payroll taxes and employee benefits which the common paymaster is making on behalf of related corporations and which payments are related to the employees being remunerated. The definitions of related corporations, common paymaster, multiple common paymasters, and concurrent employment contained in 26 Code of Federal Regulations, section 31.3121(s)-1(b) are incorporated and made a part of this subsection.

To the extent not covered by subsection (a), the exemption allowed by this subsection shall not apply to the cost of services, or reimbursements of such cost by one corporation to another corporation, of an employee disbursing the amounts exempted under this subsection. Each related corporation using a common paymaster or multiple common paymaster shall keep separate payroll records and other documentation required to prove the existence of concurrent employment. Such records

and documents shall be available for inspection by the director of taxation during normal business hours."

SECTION 2. New statutory material is underscored.

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

(Approved June 6, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 176

S.B. NO. 2389

A Bill for an Act Relating to Pensioner's Bonus.

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

SECTION 1. Section 88-11, Hawaii Revised Statutes, is amended to read as follows:

"§88-11 Bonus; amounts available. Except as herein provided, every pension payable under the employees retirement system or payable pursuant to any law of the State, or by any county or independent public board or commission, shall be increased by a bonus for each month as follows:

- (1) Effective July 1, 1976, \$77.82 per month to those retirants and pensioners who had, before July 1, 1966, ten or more years of service; provided that any member who is retired because of physical or mental disability due to any injury or disease incurred while in the performance of the member's duty as a public employee shall be entitled to receive the bonus payment without meeting the minimum service requirement;
- (2) Effective July 1, 1976, \$31.12 per month additional to the above bonus to those retirants or pensioners who retired before July 1, 1945;
- (3) Effective July 1, 1976, \$31.12 per month additional to the above bonus or bonuses to those retirants or pensioners who have had twenty-one or more years of service;
- (4) Effective July 1, 1976, if the pension as increased by the bonus or bonuses does not equal \$202.32 per month, the bonus shall be further increased by such sum, not in excess of \$31.12, as will bring the total of the pension and bonus to \$202.32 per month; provided that where the dependents of a deceased pensioner are receiving pension by reasons of the pensioner's death, the total only of all amounts paid to the dependents shall be so increased, and the increase herein shall be shared by them in proportion to the respective amount of pension receivable by them exclusive of this increase;
- (5) In the case of any retirement allowance for service commencing after June 30, 1965, pursuant to paragraph (1) or (3) of section 88-74, the only bonus payable shall be in the amount by which the benefit payable under the paragraphs is less than the bonus as set forth above; provided that in no case shall a person who retires after June 30, 1965, receive less under the service and ordinary disability retirement system benefits, plus the bonus payable under this section than the person would have received if paragraph (5) had not been enacted;

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- (6) Any provisions of this section to the contrary notwithstanding, there shall be paid to every person who on June 30, 1965, was receiving a retirement allowance from the system or other pension payable under or pursuant to the law of the State or by any county or independent board or commission, a special cost of living bonus which shall be paid in the following manner:
 - (A) On January 1, 1966, seven and one-half per cent of the retirement allowance or pension;
 - (B) On July 1, 1969, an additional ten per cent of the retirement allowance or pension;
 - (C) On July 1, 1970, an additional ten per cent of the retirement allowance or pension;
 - (D) On July 1, 1973, an additional five and one-half per cent of the retirement allowance or pension;
 - (E) On July 1, 1976, an additional eight per cent of the retirement allowance or pension;
- (7) Any provision of this section to the contrary notwithstanding, there shall be paid to every person who retired between July 1, 1965, and June 30, 1970, and who, on June 30, 1974, was receiving a retirement allowance from the system or other pension payable under or pursuant to the law of the State or by any county or independent board or commission, a special cost of living bonus which shall be paid in the following manner:
 - (A) On July 1, 1974, five and one-half per cent of the retirement allowance or pension;
 - (B) On July 1, 1976, an additional eight per cent of the retirement allowance or pension;
- (8) Any other provision to the contrary notwithstanding, effective July 1, 1980, there shall be paid to every person who retired prior to July 1, 1975, and who on June 30, 1980, was receiving a retirement allowance from the system or other pension payable under or pursuant to the law of the State or by any county or independent board or commission, a special cost of living bonus which shall be paid in the following manner:
 - (A) \$4.50 a month for each year of the retireant's or pensioner's credited service, if the person retired prior to July 1, 1965;
 - (B) \$2.50 a month for each year of the retireant's or pensioner's credited service if the person retired after June 30, 1965, but prior to July 1, 1970; and
 - (C) \$1.00 a month for each year of the retireant's or pensioner's credited service if the person retired after June 30, 1970, but prior to July 1, 1975;provided that if the retireant or pensioner had retired, returned to service, and again retired, the person's latest retirement date shall be considered as the person's date of retirement; provided further that no special cost of living bonus as provided for in this paragraph shall be paid to those retirees or pensioners who have eight or less years of credited service;
- (9) Any other provision to the contrary notwithstanding, effective July 1, 1984, there shall be paid to every person who retired after June 30, 1970, but prior to July 1, 1979, and who on June 30, 1984, was receiving a retirement allowance from the system or other pension payable under or pursuant to the law of the State or by any county or independent board or commission, a special cost of living bonus which shall be paid in the following manner:

- (A) \$.50 a month for each year of the retirant's or pensioner's credited service if the person retired after June 30, 1970, but prior to July 1, 1975;
 - (B) \$1.00 a month for each year of the retirant's or pensioner's credited service if the person retired after June 30, 1975, but prior to July 1, 1979;
- provided that if the retirant or pensioner had retired, returned to service, and again retired, the person's latest retirement date shall be considered as the person's date of retirement; provided further that no special cost of living bonus as provided for in this paragraph shall be paid to those retirants or pensioners who have eight or less years of credited service[.]; and
- (10) Any other provision to the contrary notwithstanding, effective July 1, 1988, there shall be paid to every person who retired prior to July 1, 1982, and who on June 30, 1988, was receiving a retirement allowance from the system or other pension payable under or pursuant to the law of the State or by any county or independent board or commission, a special cost of living bonus which shall be paid in the following manner:
- (A) \$3.50 a month for each year of the retirant's or pensioner's credited service, if the person retired prior to July 1, 1965;
 - (B) \$2.50 a month for each year of the retirant's or pensioner's credited service if the person retired after June 30, 1965, but prior to July 1, 1970;
 - (C) \$1.50 a month for each year of the retirant's or pensioner's credited service if the person retired after June 30, 1970, but prior to July 1, 1975; and
 - (D) \$1.00 a month for each year of the retirant's or pensioner's credited service if the person retired after June 30, 1975, but prior to July 1, 1982;
- provided that if the retirant or pensioner had retired, returned to service, and again retired, the person's latest retirement date shall be considered as the person's date of retirement; provided further that no special cost of living bonus as provided for in this paragraph shall be paid to those retirants or pensioners who have ten or less years of credited service."

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$5,085,150, or so much thereof as may be necessary for fiscal year 1988-1989, to carry out the purpose of this Act. The sum appropriated shall be expended by the department of budget and finance.

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

SECTION 4. This Act shall take effect upon its approval; provided that Section 2 shall take effect on July 1, 1988.

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ACT 177

H.B. NO. 2273

A Bill for an Act Relating to Emblems and Symbols.

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

SECTION 1. Chapter 5, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§5- State flower. The native yellow hibiscus (*Hibiscus brackenridgei* A. Gray), also known as the Pua Aloalo or Ma’o-hauhele, is established and designated as the official flower of the State.”

SECTION 2. New statutory material is underscored.¹

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

(Approved June 6, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 178

H.B. NO. 2274

A Bill for an Act Relating to Emblems and Symbols.

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

SECTION 1. Chapter 5, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§5- State bird. The nene (*Branta sandwicensis*), also known as the Hawaiian goose, is established and designated as the official bird of the State.”

SECTION 2. New statutory material is underscored.¹

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

(Approved June 6, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 179

S.B. NO. 2575

A Bill for an Act Relating to Arrests.

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

SECTION 1. Section 803-6, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In any case in which it is lawful for a police officer to arrest a person

without a warrant for a misdemeanor, petty misdemeanor or violation, the police officer may, but need not, issue a citation in lieu of the requirements of (a), if the police officer finds and is reasonably satisfied that the person:

- [(1)] Is a resident of the State of Hawaii;
- [(2)] (1) Will appear in court at the time designated;
- [(3)] (2) Has no outstanding arrest warrants which would justify the person's detention or give indication that the person might fail to appear in court; and
- [(4)] (3) That the offense is of such nature that there will be no further police contact on or about the date in question, or in the immediate future."

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

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

(Approved June 7, 1988.)

ACT 180

S.B. NO. 2712

A Bill for an Act Relating to Family Court.

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

SECTION 1. Chapter 571, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§571- Orders relating to custody and visitation cases. In any action involving the custody or visitation of a minor child, the court may order any party and the minor child, as needed, to attend counseling, parenting classes or any other type of educational activity, as the court deems appropriate to meet the best interests of the child."

SECTION 2. New statutory material is underscored.¹

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

(Approved June 7, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 181

S.B. NO. 2713

A Bill for an Act Relating to the Judiciary.

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

SECTION 1. Section 612-22, Hawaii Revised Statutes, is amended to read as follows:

"§612-22 Trial jurors subject to one year of service; one day or one

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trial requirement. The persons whose names are placed on the certified lists filed by the clerk shall be subject to service for one year from and after January 15 and until the filing of new certified lists; provided that trial jurors shall serve only one day or one trial during the year. Prospective jurors who are challenged at voir dire and excused, excused for cause, summoned but not called to a courtroom, or called to a courtroom but later excused shall return to the juror pool to await reassignment to another trial. Jurors in the juror pool awaiting reassignment to another trial shall be discharged after it has been determined that their services will not be needed. Jurors who are discharged from the juror pool shall be dismissed from service for the year. Jurors who are accepted to serve on a jury shall complete the duration of the trial and shall be dismissed from service for the year.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect on January 1, 1989 for the courts of the first circuit of the State of Hawaii, and on July 1, 1990 for the courts of all other circuits of the State.

(Approved June 7, 1988.)

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S.B. NO. 2761

A Bill for an Act Relating to the Criminal Justice Data Interagency Board.

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

SECTION 1. Section 846-1.5, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) There is established within the department of the attorney general for administrative purposes the criminal justice data interagency board, consisting of eleven voting members, eight of whom shall be appointed and three of whom shall be ex officio. The eight appointed members shall include one representative from each of two police departments, one representative from each of two prosecuting attorneys' offices, an administrative judge of the district court, an administrative judge of the circuit court, a representative from the adult probation office, and a representative of, or a government attorney who provides legal services to, a state or county criminal justice agency. The appointed members shall include a resident of each of the four major counties of the State. The ex officio voting members shall be the division chief of the electronic data processing division of the state department of budget and finance, the director of data systems of the city and county of Honolulu, and the [deputy] director of the state department [overseeing the] of corrections [functions]. Members other than the ex officio voting members shall be appointed by the governor as provided in section 26-34 and shall serve in a representative capacity. Upon a member's termination of employment with the member's respective agency, or reassignment to nonadministrative or other functional responsibilities inconsistent with the basis for appointment, that member's [terms] term of appointment to the board shall terminate automatically and a vacancy shall be deemed to exist.

(b) The attorney general shall designate the executive secretary of the board. The board shall meet no less than quarterly. If for any reason any member is not able to attend a meeting of the board, the member shall designate and authorize a substitute to attend the meeting and to act in place of the member. The substitute shall be a person employed with the same agency that is represented by the member

and shall be entitled to participate in all actions and business of the board with all rights, authority, and privileges of the member who designated the substitute. The board shall be responsible for promoting interagency cooperation and coordination in the development and management of an accurate, complete, timely, and fully integrated statewide criminal justice information reporting and retrieval system. The members of the board shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.”

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

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

(Approved June 7, 1988.)

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S.B. NO. 2765

A Bill for an Act Relating to Civil Identification.

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

SECTION 1. Section 846-28, Hawaii Revised Statutes, is amended to read as follows:

“§846-28 Information to be secured. The department of the attorney general shall require, collect, secure, make, and preserve a written record of the following items of information so far as it is practicable to secure the same, with respect to each applicant for registration:

- (1) The name of the person applying to be registered (hereinafter called the “registrant” or “applicant”), the street and number or address of the applicant’s place of habitation in the State, and the applicant’s residence and business telephone numbers, if any;
- [(2)] Whether the applicant has ever been fingerprinted and, if so, where, when, and why;
- [(3)] (2) The applicant’s occupation and any pertinent data relating thereto;
- [(4)] (3) The applicant’s nationality or racial extraction;
- [(5)] (4) The applicant’s citizenship status;
- [(6)] (5) The date and place of the applicant’s birth;
- [(7)] (6) The applicant’s personal description including sex, height, weight, hair, eyes, complexion, build, scars, and marks;
- [(8)] (7) The fingerprints of both hands of the applicant; provided that this requirement shall not apply to minors until they reach the age of six years, except as may be requested by a parent or guardian;
- [(9)] (8) The name, relationship, and address of the nearest relative or other person to be notified in case of sickness, accident, death, emergency, or need of the applicant, if such notification is desired;
- [(10)] (9) The social security number of the applicant.”

SECTION 2. Section 846-30, Hawaii Revised Statutes, is amended to read as follows:

“§846-30 Identification certificates; form. The department of the attorney general, after taking the fingerprints of each registrant as provided in this part

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(except as otherwise provided in the case of children under six years of age), and after securing the information required by or pursuant to this part, shall issue to each registrant a certificate of identification in such form, and with such information, as the attorney general deems necessary and practicable, the certificate to contain, among other things: the registrant's social security number; the date of issue; the name, residence, citizenship status, date of birth (if known), the registrant's signature, a facsimile signature of the attorney general, [the] a facsimile signature of the officer or employee issuing the certificate (to be designated as the "administrator of the data center"), the fingerprints of the index and middle fingers of each of the registrant's hands (except as otherwise provided in the case of children under six years of age), the name and address of the person to be notified in case of need, and such other personal identification data as the attorney general deems necessary and practicable. Upon the fingerprinting of each child attaining the age of six years after having been registered, the child's previous certificate shall be [cancelled] canceled and a new certificate, bearing the child's fingerprints, shall be issued under the same number[, bearing the child's fingerprints]."

SECTION 3. Section 846-31, Hawaii Revised Statutes, is amended to read as follows:

"§846-31 Identification certificates not to be altered[, etc.]; duties of holder; lost certificates. No person, except agents of the department of the attorney general acting pursuant to its authority, shall alter, deface, or destroy any certificate of identification. Except as specifically authorized by this section or the rules of the attorney general, no registrant shall loan or give the registrant's certificate of identification to any other person, and no person shall use the certificate of identification of any other person. Any registrant whose certificate of identification is stolen or otherwise lost, or altered, defaced, or destroyed, [shall report the fact to the nearest office of the department within forty-eight hours after discovering the fact, and] may at any time apply for a duplicate certificate of identification in such manner as the attorney general may require, which duplicate shall be issued by the department upon being satisfied as to such loss, alteration, defacing, or destruction and the payment of a fee of \$6, and shall be distinctly marked as a duplicate. The fee may be waived by the attorney general where the requirement thereof would impose extreme hardship. In the case of an altered or defaced certificate of identification, the certificate, if available, shall be surrendered by the registrant and canceled by the department. Any person finding or coming into possession of the certificate of identification of any other person shall promptly return or deliver the same to the owner thereof or to the nearest office of the department. [Any person finding the person's own lost certificate after having received a duplicate certificate shall promptly deliver the previously lost certificate to the department.]"

SECTION 4. Section 846-35, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) All information and records acquired by the department of the attorney general under this part shall be confidential. All records shall be filed in an appropriate office in the custody and under the control of the department, which 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 persons in the department, and such other persons or agencies as the attorney general shall authorize, under such restrictions as the attorney general shall prescribe. [The information and records shall not be subject to subpoena or other court process.]"

SECTION 5. Section 846-36, Hawaii Revised Statutes, is amended to read as follows:

"§846-36 Violations; penalties. Any person who (1) knowingly furnishes any false or untruthful information or answer validly required under this part; (2) violates or without adequate excuse fails to comply with any requirement of this part or of any rule issued pursuant thereto, which is legally applicable to the person, and for which no other penalty is specifically prescribed by this part; or (3) without adequate excuse, fails to perform any act lawfully required to be performed by the person pursuant to this part or such rules shall be fined not more than \$500, or imprisoned not more than six months, or both[; provided that failure of a person to report that the person's certificate is lost, stolen, or destroyed, or to return to the department of the attorney general the person's lost certificate when the person has secured a duplicate and finds the lost certificate for which such duplicate was issued, shall be punishable by fine of not more than \$5.]

"Adequate excuse", as used in this section, means inability to comply with any such requirement or perform any such act, due to any cause beyond the control of the individual concerned and not due to the individual's malfeasance, nonfeasance, or gross negligence]."

SECTION 6. Section 846-25, Hawaii Revised Statutes, is repealed.

SECTION 7. Section 846-26, Hawaii Revised Statutes, is repealed.

SECTION 8. Section 846-33, Hawaii Revised Statutes, is repealed.

SECTION 9. Section 846-38, Hawaii Revised Statutes, is repealed.

SECTION 3.¹ Statutory material to be repealed is bracketed. New statutory material is underscored.²

SECTION 4.¹ This Act shall take effect upon its approval.

(Approved June 7, 1988.)

Notes

1. So in original.

2. Edited pursuant to HRS §23G-16.5.

ACT 184

S.B. NO. 2926

A Bill for an Act Relating to the Criminal Procedure.

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

SECTION 1. Section 853-1, Hawaii Revised Statutes, is amended to read as follows:

"§853-1 Deferred acceptance of guilty plea or nolo contendere plea; discharge and dismissal, expungement of records. (a) Upon proper motion as provided by this chapter:

- (1) When a defendant voluntarily pleads guilty or nolo contendere, prior to commencement of trial, to a felony, misdemeanor, or petty misdemeanor;
- (2) It appears to the court that the defendant is not likely again to engage in a criminal course of conduct; and

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(3) The ends of justice and the welfare of society do not require that the defendant shall presently suffer the penalty imposed by law, the court, without accepting the plea of nolo contendere or entering a judgment of guilt and with the consent of the defendant and after considering the recommendations, if any, of the prosecutor, may defer further proceedings.

(b) The proceedings may be deferred upon any of the conditions specified by section 706-624. The court may defer the proceedings for such period of time as the court shall direct but in no case to exceed the maximum sentence allowable[.] unless the defendant has entered a plea of guilty or nolo contendere to a petty misdeameanor, in which case the court may defer the proceedings for a period not to exceed one year. The defendant may be subject to bail or recognizance at the court's discretion during the period during which the proceedings are deferred.

(c) Upon the defendant's completion of the period designated by the court and in compliance with the terms and conditions established, the court shall discharge the defendant and dismiss the charge against the defendant.

(d) Discharge of the defendant and dismissal of the charge against the defendant under this section shall be without adjudication of guilt, shall eliminate any civil admission of guilt, and is not a conviction.

(e) Upon discharge of the defendant and dismissal of the charge against the defendant under this section, the defendant may apply for expungement not less than one year following discharge, pursuant to section 831-3.2.”

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

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

(Approved June 7, 1988.)

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H.B. NO. 839

A Bill for an Act Relating to Tax Credits.

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

SECTION 1. The legislature finds that Article VII, section 6, of the Constitution of the State of Hawaii requires the legislature to provide a tax refund or tax credit when certain factors are met. The legislature finds that these factors have been met for the seventh year in a row and that the legislature is constitutionally required to give a tax credit or a tax refund.

The purpose of this Act is to provide for such an income tax credit to satisfy constitutionally mandated requirements.

SECTION 2. (a) In addition to the excise tax credit allowed under section 235-55.5, Hawaii Revised Statutes, and in addition to any other credit allowed under chapter 235, Hawaii Revised Statutes, there shall be allowed each resident individual taxpayer who qualifies under section 235-55.5(a), Hawaii Revised Statutes, a general income tax credit of \$1 which shall be deducted from income tax liability computed under chapter 235, Hawaii Revised Statutes. The general income tax credit of \$1 shall be multiplied by the number of qualified exemptions as defined in section 235-55.5(c), Hawaii Revised Statutes, to which the taxpayer is entitled, regardless of adjusted gross income. Section 235-55.5(c), Hawaii Revised Statutes, to the contrary notwithstanding, such qualified exemption shall have been a resident

of the State as defined in section 235-1, Hawaii Revised Statutes, for at least nine months whether or not such qualified resident was physically in the State for nine months. For the purposes of this section, multiple exemptions shall not be granted for this credit because of age, or deficiencies in vision, hearing, or other disability. The general income tax credit allowed under this section shall be deducted from income tax liability for the taxable year 1988. Section 235-55.5(d) and (e), Hawaii Revised Statutes, is applicable to this section and incorporated herein to the extent not in conflict with this section.

(b) The credit under this section shall not be available to (1) any person who has been convicted of a felony and who has been committed to prison and has been physically confined for the full taxable year; (2) any person who would otherwise be eligible to be claimed as a dependent but who has been committed to a youth correctional facility and has resided at the facility for the full taxable year; or (3) any misdemeanant who has been committed to jail and has been physically confined for the full taxable year.

(c) This section implements the provisions of Article VII, section 6, of the State of Hawaii Constitution enacted by the 1978 Constitutional Convention, which states as follows:

“DISPOSITION OF EXCESS REVENUES

Section 6. Whenever the state general fund balance at the close of each of two successive fiscal years exceeds five percent of general fund revenues for each of the two fiscal years, the legislature in the next regular session shall provide for a tax refund or tax credit to the taxpayers of the State, as provided by law.”

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

(Approved June 7, 1988.)

ACT 186

H.B. NO. 2003

A Bill for an Act Relating to International Arbitration.

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

§ -1 Short title. This Act shall be known and may be cited as the “Hawaii International Arbitration, Mediation, and Conciliation Act.”

§ -2 Statement of findings and declaration of purposes. The legislature hereby finds and declares that: (a) The rapid expansion of international business, trade, and commerce among nations in the Pacific region provides important opportunities for the State of Hawaii to participate in such business, trade, and commerce; (b) there will inevitably arise, from time to time, disagreements and disputes arising from such business, trade, and commercial relations and transactions that are amenable to resolution by means of international arbitration, mediation, conciliation, and other forms of dispute resolution in lieu of international litigation; (c) it is the policy of this State to encourage the use of arbitration, mediation, and conciliation to reduce disputes arising out of international business, trade, com-

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mercial, and other relationships; (d) it is declared that the objective of encouraging the development of Hawaii as an international center for the resolution of international business, commercial, trade, and other disputes be supported through the establishment of certain legal authorities as set forth in this chapter.

§ -3 Policy. It is the policy of the State of Hawaii to encourage the use of arbitration, mediation, and conciliation to resolve disputes arising out of international relationships and to maximize private autonomy over such proceedings by limiting court involvement therein to: (a) the enforcement of decisions, awards and settlement; and (b) ancillary matters in aid of such proceedings.

§ -4 Scope. (a) This chapter shall apply only to the arbitration, mediation, or conciliation of disputes between:

- (1) Two or more persons at least one of whom is a nonresident of the United States; or
 - (2) Two or more persons all of whom are residents of the United States if the dispute: (i) involves property located outside the United States; (ii) relates to a contract which envisages enforcement or performance in whole or in part outside the United States; or (iii) bears some other relation to one or more foreign countries.
- (b) Notwithstanding subsection (a), this chapter shall not apply to the arbitration, mediation, or conciliation of:
- (1) Any dispute pertaining to the ownership, use, development, or possession of, or a lien of record upon, real property located in this State, unless the parties in writing expressly submit the resolution of that dispute to this chapter; or
 - (2) Any dispute involving domestic (family) relations.
- (c) If in any arbitration within the scope of this chapter reference must, under applicable conflict of laws principles, be made to the arbitration law of this State, such reference shall be to this chapter.
- (d) This chapter shall apply to any arbitration within the scope of this chapter, without regard to whether the place of arbitration is within or without this State:
- (1) If the written undertaking to arbitrate expressly provides that the law of this State shall apply; or
 - (2) In the absence of a choice of law provision applicable to the written undertaking to arbitrate, if that undertaking forms part of a contract the interpretation of which is to be governed by the laws of this State; or
 - (3) In any other case, any arbitral tribunal or other panel established pursuant to Section 7 below decides under applicable conflict of laws principles that the arbitration shall be conducted in accordance with the laws of this State.

§ -5 Definitions. As used in this chapter:

“Arbitration” shall also encompass, as appropriate, mediation, conciliation, and other forms of dispute resolution as an alternative to international litigation.

“Center” means any center organized as an independent nonprofit educational corporation duly established under the laws of this State, whose principal purpose is to facilitate the resolution of international business, trade, commercial, and other disputes between persons by means of arbitration, mediation, conciliation, and other means as an alternative to the resort to litigation.

“Person” means not only individuals, but corporations, firms, associations, societies, communities, assemblies, inhabitants of a district, or neighborhood, or persons known or unknown, and the public generally and shall include a government

or any agency, instrumentality, or subdivision thereof where it appears, from the subject matter, the sense and connection in which such words are used, that such construction is intended.

“Resident of the United States” means:

- (1) A natural person who maintains sole residence within a state, possession, commonwealth, or territory of the United States or within the District of Columbia; or
- (2) Any other person organized or incorporated under the laws of the United States, any state, possession, commonwealth, or territory thereof, or the District of Columbia.

“Nonresident of the United States” means any person not a “resident of the United States”.

“Written undertaking to arbitrate” shall mean a writing in which a person undertakes to submit a dispute to arbitration, without regard to whether that undertaking is sufficient to sustain a valid and enforceable contract or is subject to defenses. A written undertaking may be part of a contract, may be a separate writing, and may be contained in correspondence, telegrams, telexes, or any other form of written communication.

§ -6 Consent to jurisdiction. Conducting arbitration in this State, or making a written agreement to arbitrate which provides for arbitration within this State subject to this chapter, shall constitute a consent by the parties to that arbitration or undertaking to the exercise of in personam jurisdiction by the circuit courts of this State but only for the purposes of such arbitration.

§ -7 Certain legal authorities for international commercial disputes resolution. (a) A center shall not be considered a department, agency, or public instrumentality of this State, and shall not be subject to the laws of this State applying to departments, agencies, and public instrumentalities of this State, except that a center shall be subject to all of the laws of this State pertaining to nonprofit corporations.

(b) A center shall permit the participants to an arbitration to select any body of rules and procedures for the conduct, administration, and facilitation of that proceeding, whether such rules and procedures have been prepared by private arbitral organizations, created by the participants themselves, or by the center.

(c) A center shall have the authority pursuant to this chapter to establish from time to time such rules and procedures for the conduct, administration, and facilitation of the resolution, whether by arbitration, mediation, conciliation, or otherwise, of all disputes subject to this chapter.

(d) In furtherance of the foregoing, a center shall have the authority pursuant to this chapter to adopt rules providing, without limitation and by way of illustration only, that any arbitral tribunal or other panel established pursuant to such rules shall:

- (1) Determine the relevance and materiality of the evidence without the need to follow formal rules of evidence;
- (2) Be able to utilize any lawful method that it deems appropriate to obtain evidence additional to that produced by the parties;
- (3) Issue subpoenas or other demands for the attendance of witnesses or for the production of books, records, documents, and other evidence;
- (4) Be empowered to administer oaths, order depositions to be taken or other discovery obtained, without regard to the place where the witness or other evidence is located, and appoint one or more experts to report to it;

- (5) Fix such fees for the attendance of witnesses as it deems appropriate;
 - (6) Make awards of interest, reasonable attorney's fees and costs of the arbitration, mediation, or conciliation as agreed to in writing by the parties, or in the absence of such agreement, as it deems appropriate; and
- (e) In exercising the powers conferred upon it by this chapter, such arbitral tribunal, or other panel may apply for assistance from any court, tribunal or governmental authority in any jurisdiction. Any application to a court hereunder shall be made and heard in a summary way in the manner provided for the making and hearing of motions, except as otherwise herein expressly provided.

§ -8 Arbitral tribunal or panel; powers. The arbitral tribunal or panel established pursuant to section 7 of this chapter or a majority of them, may summon in writing any person to attend before it or any of them as a witness and in a proper case to bring certain described books, papers, records and documents. The fees for attendance shall be the same as the fees of witnesses before the circuit courts of this State. The summons shall issue in the name of the arbitral tribunal or panel and be signed by a majority of them, shall be directed to such person, and shall be served in the same manner as subpoenas to testify before a court of record. If any person so summoned to testify refuses or neglects to obey the summons, upon petition the circuit court may compel the attendance of such person before the arbitral tribunal or panel, or punish such person for contempt in the same manner now provided for the attendance of witnesses or the punishment of them in the circuit court.

§ -9 Enforcement. (a) Arbitral or other awards or settlements issued pursuant to this chapter by the center shall be enforced by the circuit courts of this State as permitted by law and consistent with the United States Arbitration Act, 9 U.S.C. §201, et seq., and the enforcement provisions of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, as implemented by 9 U.S.C. §201, et seq., unless subsection (b) below is applicable.

(b) Where the parties specifically submit to jurisdiction of this chapter pursuant to section 6, the center may require those parties residing in countries not signatories to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, as implemented by 9 U.S.C. §201 et seq., and not having sufficient assets otherwise within the jurisdiction of the circuit courts of this State, to post such bonds or other security as the center shall deem appropriate to assure reasonable likelihood of enforcement of any award or other relief ultimately ordered by the center in the proceeding.”

SECTION 2. This Act shall take effect upon its approval.

(Approved June 7, 1988.)

ACT 187

H.B. NO. 2035

A Bill for an Act Relating to Captive Insurance.

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

SECTION 1. Chapter 431J, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§431J- Taxation. (a) Each pure captive insurance company licensed to

do business in this State shall pay to the director of finance through the commissioner a tax of .25 per cent on gross premiums received from all risks or property resident, situated, or located within this State, and on risks and property situated elsewhere upon which no premium tax is otherwise paid during the year ending on the preceding December 31, less return premiums and less any reinsurance accepted. The tax shall be due and payable on March 15 of each year.

(b) Each association captive insurance company licensed to do business in this State and each risk retention captive insurance company chartered in this State shall pay a tax of one per cent on gross premiums received from all risks or property resident, situated, or located within this State, and on risks and property situated elsewhere upon which no premium tax is otherwise paid during the year ending on the preceding December 31, less return premiums and less any reinsurance accepted. The tax shall be due and payable on March 15 of each year.

(c) The tax imposed by this section when paid shall be in settlement of and in lieu of all demands for taxes of every character imposed by the laws of this State, the ordinances or other laws, rules, or regulations of any county or any city and county of this State, except taxes on real property, and taxes on the purchase, use or ownership of tangible personal property.”

SECTION 2. Act 347, Session Laws of Hawaii 1987, Section 2, is amended by adding a new section to chapter 431:19 to be appropriately designated and to read as follows:

“§431:19- Taxation. (a) Each pure captive insurance company licensed to do business in this State shall pay to the director of finance through the commissioner a tax of .25 per cent on gross premiums received from all risks or property resident, situated, or located within this State, and on risks and property situated elsewhere upon which no premium tax is otherwise paid during the year ending on the preceding December 31, less return premiums and less any reinsurance accepted. The tax shall be due and payable on March 15 of each year.

(b) Each association captive insurance company licensed to do business in this State and each risk retention captive insurance company chartered in this State shall pay a tax of one per cent on gross premiums received from all risks or property resident, situated, or located within this State, and on risks and property situated elsewhere upon which no premium tax is otherwise paid during the year ending on the preceding December 31, less return premiums and less any reinsurance accepted. The tax shall be due and payable on March 15 of each year.

(c) The tax imposed by this section when paid shall be in settlement of and in lieu of all demands for taxes of every character imposed by the laws of this State, the ordinances or other laws, rules, or regulations of any county or any city and county of this State, except taxes on real property, and taxes on the purchase, use or ownership of tangible personal property.”

SECTION 3. 431J-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Risk retention captive insurance company” means a captive insurance company which is formed as a “risk retention group” as defined in Chapter 431K.”

SECTION 4. Section 431J-2, Hawaii Revised Statutes, is amended to read as follows:

“[§431J-2] Licensing; authority. (a) Any captive insurance company, when permitted by its articles of association or charter, may apply to the commis-

sioner for a license to do any and all insurance set forth in subsection (g); provided that:

- (1) No pure captive insurance company may insure any risks other than those of its parent and affiliated companies;
- (2) No association captive insurance company may insure any risks other than those of the member organizations of its association, and their affiliated companies;
- (3) No risk retention captive insurance company may insure any risks other than those of the insureds that comprise the risk retention group;
- (4) No captive insurance company may provide personal motor vehicle or homeowner's insurance coverage or any component thereof; and
- [4] (5) No captive insurance company may accept or cede reinsurance except as provided in section 431J-11.

(b) No captive insurance company shall do any insurance business in this State unless:

- (1) It first obtains from the commissioner a license authorizing it to do insurance business in this State;
- (2) Its board of directors holds at least one meeting each year in this State;
- (3) It maintains its principal place of business in this State; and
- (4) It appoints a resident registered broker or agent to accept service of process and to otherwise act on its behalf in this State. Whenever the registered broker or agent cannot with reasonable diligence be found at the registered office of the captive insurance company, the [director of commerce and consumer affairs] commissioner shall be an agent of such captive insurance company upon whom any process, notice, or demand may be served.

(c) Before receiving a license, a captive insurance company shall file with the commissioner a certified copy of its charter and bylaws, a statement under oath of its president and secretary showing its financial condition, and any other statements or documents required by the commissioner.

(d) In addition to the information required by subsection (c), each applicant captive insurance company shall file with the commissioner evidence of the following:

- (1) The amount and liquidity of its assets relative to the risks to be assumed;
- (2) The adequacy of the expertise, experience, and character of the person or persons who will manage it;
- (3) The overall soundness of its plan of operation;
- (4) The adequacy of the loss prevention programs of its parent or member organizations as applicable; and
- (5) Any other factors deemed relevant by the commissioner in ascertaining whether the proposed captive insurance company will be able to meet its policy obligations.

(e) Each captive insurance company shall pay to the commissioner a non-refundable fee of \$1,000 for examining, investigating, and processing its application for license. In addition, it shall pay a license fee for the year of registration and a renewal fee for each year thereafter of \$300.

(f) The commissioner shall establish a list of advisors to assist with the review of captive applications. The commissioner shall appoint an advisor from the list to review a specific application. The advisor's fee, to be paid by the captive applicant, shall not exceed \$3,500 for a pure captive application and \$7,500 for an association captive or a risk retention captive application. This provision shall be repealed on July 1, 1990.

(g) If the commissioner is satisfied that the documents and statements filed by the captive insurance company complies with this chapter, the commissioner

may grant a license authorizing it to do insurance business in this State until April 1 thereafter, which license may be renewed.

[(g)] (h) A captive insurance company may engage in the business of any of the following types of insurance:

- (1) All casualty insurance;
- (2) Marine and transportation insurance;
- (3) Marine protection and indemnity insurance, which includes insurance against, or against legal liability of the insured for loss, damage or expense arising out of or incident to, the ownership, operation, chartering, maintenance, use, repair, or construction of a vessel, craft, or instrumentality in use in ocean or inland waterways, including liability of the insured for personal injury, illness, or death, or for loss of or damage to the property of another person;
- (4) Wet marine and transportation insurance, which is that part of marine and transportation insurance that includes only:
 - (A) Insurance upon vessels, crafts, hulls, and of interests therein or with relation thereto;
 - (B) Insurance of marine builder's risks, marine war risks and contracts, or marine protection and indemnity insurance;
 - (C) Insurance of freights and disbursements pertaining to a subject of insurance; and
 - (D) Insurance of personal property and interests therein, in the course of exportation from or importation into any country, and in the course of transportation coastwise or on inland waters, including transportation by land, water, or air from point of origin to final destination, in respect to, appertaining to, or in connection with, any and all risks or perils of navigation, transit¹ or transportation, and while being prepared for and while awaiting shipment, and during delays, storage, transshipment, or reshipment incident thereto;
- (5) Property insurance;
- (6) Surety insurance; [and]
- (7) Title insurance[.]; and
- (8) Credit life insurance and credit disability insurance."

SECTION 5. Section 431J-7, Hawaii Revised Statutes, is amended to read as follows:

“[[§431J-7]] Financial statements and other reports. (a) Each captive insurance company shall submit to the commissioner a statement of financial condition written according to generally accepted accounting principles and audited by an independent certified public accountant on or before the last day of the sixth month following the end of the company's fiscal year. [The financial statement shall be on a form prescribed by the commissioner and]

(b) In addition, each association captive and risk retention captive shall file an annual statement in accordance with statutory accounting practices, which shall be a true statement of its financial condition, transactions, and affairs as of the immediately preceding December 31, in general form and context as approved by the National Association of Insurance Commissioners, verified by oaths of at least two of the insurer's principal officers.

(c) The statements required to be filed in subsections (a) and (b) shall include, but not be limited to, actuarially appropriate reserves for:

- (1) Known claims and expenses associated therewith;
- (2) Claims incurred but not reported and expenses associated therewith;
- (3) Unearned premiums; and
- (4) Bad debts, reserves for which shall be shown as liabilities.

An actuarial opinion regarding reserves for known claims and expenses associated therewith and claims incurred but not reported and expenses associated therewith shall be included in the audited [financial statement.] statements. The actuarial opinion shall be given by a member of the American Academy of Actuaries or other qualified loss reserve specialist as defined in the annual statement adopted by the National Association of Insurance Commissioners.

[[(b)] (d) The commissioner may prescribe the format and frequency of other reports which may include, but shall not be limited to, summary loss reports and quarterly financial statements.]

SECTION 6. Section 431J-10, Hawaii Revised Statutes, is amended to read as follows:

"[[]§431J-10[]] Legal investments. Each [pure] captive insurance company shall be subject to the restrictions on allowable investments provided under sections 431-281 to 431-312[.] except that pure captive insurance companies may obtain approval from the commissioner for investments that are not specified in the insurance code."

SECTION 7. Chapter [[431J-11[]]]¹ Hawaii Revised Statutes, is amended to read as follows:

"[[]§431J-11[]] Reinsurance. (a) Any captive insurance company may provide reinsurance[, as provided in section 431-109,] on risks ceded by any other insurer[.] only upon approval of the reinsurance agreement by the commissioner.

(b) Any captive insurance company may take credit for reserves on risks ceded to a reinsurer; provided that no captive insurance company shall [reinsure a risk or part thereof with an insurer unless the insurer has been approved by the commissioner and, prior to approval, has:

- (1) Filed with the commissioner a power of attorney executed by reinsurer proposing to accept reinsurance, in a form approved by the commissioner, authorizing the director of commerce and consumer affairs to accept service of process on behalf of a reinsurer. The power of attorney shall be and remain effective as to all cases of reinsurance by a reinsurer;
- (2) Paid to the commissioner an initial fee of \$100 and thereafter an annual fee of \$100 payable before April 1 of each year;
- (3) Filed a certified copy of its charter and bylaws with the commissioner; and
- (4) Filed a statement under oath of its president and secretary showing its financial condition and any other statements and materials required by the commissioner.] cede risks without the approval of the commissioner."

SECTION 8. Act 347, Session Laws of Hawaii 1987, Section 2 is amended by adding a new definition to section 431:19-101 be appropriately inserted and to read as follows:

"“Risk retention captive insurance company” means a captive insurance company which is formed as a “risk retention group” as defined in Chapter 431K.”

SECTION 9. Act 347, Session Laws of Hawaii 1987, Section 2, is amended to read as follows:

"§431:19-102 Licensing; authority. (a) Any captive insurance company, when permitted by its articles of association or charter, may apply to the commissioner for a license to do any and all insurance set forth in subsection [(g);] (h); provided that:

- (1) No pure captive insurance company may insure any risks other than those of its parent and affiliated companies;
- (2) No association captive insurance company may insure any risks other than those of the member organizations of its association, and their affiliated companies;
- (3) No risk retention captive insurance company may insure any risks other than those of the insureds that comprise the risk retention group;
- (4) No captive insurance company may provide personal motor vehicle or homeowner's insurance coverage or any component thereof; and
- [4)] (5) No captive insurance company may accept or cede reinsurance except as provided in section 431:19-111.

(b) No captive insurance company shall do any insurance business in this State unless:

- (1) It first obtains from the commissioner a license authorizing it to do insurance business in this State;
- (2) Its board of directors holds at least one meeting each year in this State;
- (3) It maintains its principal place of business in this State; and
- (4) It appoints a resident registered broker or agent to accept service of process and to otherwise act on its behalf in this State. Whenever the registered broker or agent cannot with reasonable diligence be found at the registered office of the captive insurance company, the [director of commerce and consumer affairs] commissioner shall be an agent of such captive insurance company upon whom any process, notice, or demand may be served.

(c) Before receiving a license, a captive insurance company shall file with the commissioner a certified copy of its charter and bylaws, a statement under oath of its president and secretary showing its financial condition, and any other statements or documents required by the commissioner.

(d) In addition to the information required by subsection (c), each applicant captive insurance company shall file with the commissioner evidence of the following:

- (1) The amount and liquidity of its assets relative to the risks to be assumed;
- (2) The adequacy of the expertise, experience, and character of the person or persons who will manage it;
- (3) The overall soundness of its plan of operation;
- (4) The adequacy of the loss prevention programs of its parent or member organizations as applicable; and
- (5) Any other factors deemed relevant by the commissioner in ascertaining whether the proposed captive insurance company will be able to meet its policy obligations.

(e) Each captive insurance company shall pay to the commissioner a non-refundable fee of \$1,000 for examining, investigating, and processing its application for license. In addition, it shall pay a license fee for the year of registration and a renewal fee for each year thereafter of \$300.

(f) The commissioner shall establish a list of advisors to assist with the review of captive applications. The commissioner shall appoint one advisor from the list to review a specific application. The advisor's fee, to be paid by the captive

applicant, shall not exceed \$3,500 for a pure captive application and \$7,500 for an association captive or a risk retention captive application. This provision shall be repealed on July 1, 1990.

(g) If the commissioner is satisfied that the documents and statements filed by the captive insurance company [complies] comply with this article, the commissioner may grant a license authorizing it to do insurance business in this State until April 1 thereafter, which license may be renewed.

[(g)] (h) A captive insurance company may engage in the business of any of the following types of insurance:

- (1) All casualty insurance;
- (2) Marine and transportation insurance;
- (3) Marine protection and indemnity insurance, which includes insurance against, or against legal liability of the insured for loss, damage, or expense arising out of or incident to, the ownership, operation, chartering, maintenance, use, repair, or construction of a vessel, craft, or instrumentality in use in ocean or inland waterways, including liability of the insured for personal injury, illness, death, or for loss of or damage to the property of another person;
- (4) Wet marine and transportation insurance, which is that part of marine and transportation insurance that includes only:
 - (A) Insurance upon vessels, crafts, hulls, and of interests therein or with relation thereto;
 - (B) Insurance of marine builder's risks, marine war risks and contracts, or marine protection and indemnity insurance;
 - (C) Insurance of freights and disbursements pertaining to a subject of insurance; and
 - (D) Insurance of personal property and interests therein, in the course of exportation from or importation into any country, and in the course of transportation coastwise or on inland waters, including transportation by land, water, or air from point of origin to final destination, with respect to, appertaining to, or in connection with any and all risks or perils of navigation, transit, or transportation, and while being prepared for and while awaiting shipment, and during delays, storage, transhipment, or reshipment incident thereto;
- (5) Property insurance;
- (6) Surety insurance; [and]
- (7) Title insurance[.]; and
- (8) Credit life insurance and credit disability insurance relating to specific loans or other credit transactions between its parent or affiliated companies and any of their directors, officers, and employees."

SECTION 10. Act 347, Session Laws of Hawaii 1987, Section 2, is amended by amending section 431:19-107 to read as follows:

"§431:19-107 Financial statements and other reports. (a) Each captive insurance company shall submit to the commissioner a statement of financial condition written according to generally accepted accounting principles and audited by an independent certified public accountant on or before the last day of the sixth month following the end of the company's fiscal year. [The financial statement shall be on a form prescribed by the commissioner and]

(b) In addition, each association captive and risk retention captive shall file an annual statement in accordance with statutory accounting practices, which shall be a true statement of its financial condition, transactions, and affairs as of the

immediately preceding December 31, in general form and context as approved by the National Association of Insurance Commissioners, verified by oaths of at least two of the insurer's principal officers.

(c) The statements required to be filed in subsections (a) and (b) shall include, but not be limited to, actuarially appropriate reserves for:

- (1) Known claims and expenses associated therewith;
- (2) Claims incurred but not reported and expenses associated therewith;
- (3) Unearned premiums; and
- (4) Bad debts, reserves for which shall be shown as liabilities.

An actuarial opinion regarding reserves for known claims and expenses associated therewith and claims incurred but not reported and expenses associated therewith shall be included in the audited [financial statement] statements. The actuarial opinion shall be given by a member of the American Academy of Actuaries or other qualified loss reserve specialist as defined in the annual statement adopted by the National Association of Insurance Commissioners.

[(b)] (d) The commissioner may prescribe the format and frequency of other reports which may include, but shall not be limited to, summary loss reports and quarterly financial statements."

SECTION 11. Act 347, Session Laws of Hawaii 1987, Section 2, is amended by amending section 431:19-110 to read as follows:

"§431:19-110 Legal investments. Each [pure] captive insurance company shall be subject to the restrictions on allowable investments provided under [article 6.] sections 431:6-101 to 431:6-501, except that pure captive insurance companies may obtain approval from the commissioner for investments that are not specified in the insurance code.¹

SECTION 12. Act 347, Session Laws of Hawaii 1987, Section 2, is amended by amending 431:19-111 to read as follows:

"§431:19-111 Reinsurance. (a) Any captive insurance company may provide reinsurance on risks ceded by any other insurer[.] only upon approval of the reinsurance agreement by the commissioner.

(b) Any captive insurance company may take credit for reserves on risks ceded to a reinsurer; provided that no captive insurance company shall [reinsure a risk or part thereof with an insurer unless the insurer has been approved by the commissioner and, prior to approval, has:

- (1) Filed with the commissioner a power of attorney executed by reinsurer proposing to accept reinsurance, in a form approved by the commissioner, authorizing the director of commerce and consumer affairs to accept service of process on behalf of a reinsurer. The power of attorney shall be and remain effective as to all cases of reinsurance by a reinsurer;
- (2) Paid to the commissioner an initial fee of \$100 and thereafter an annual fee of \$100 payable before April 1 of each year;
- (3) Filed a certified copy of its charter and bylaws with the commissioner; and
- (4) Filed a statement under oath of its president and secretary showing its financial condition and any other statements and materials required by the commissioner.] cede risks without the approval of the commissioner."

SECTION 13. Statutory material to be repealed is bracketed. New statutory material is underscored.²

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

(Approved June 7, 1988.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

ACT 188

H.B. NO. 2037

A Bill for an Act Relating to New Motor Vehicle Warranties.

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

SECTION 1. Section 490:2-313.1, Hawaii Revised Statutes, is amended to read as follows:

“§490:2-313.1 New motor vehicle; express warranties, return. (a) If a new motor vehicle does not conform to all applicable express warranties, and the consumer reports the nonconformity in writing to the manufacturer, or at its option, its agent, distributor, or its authorized dealer during the term of such express warranties, then the manufacturer, its agent, distributor, or its authorized dealer shall make such repairs as are necessary to conform the vehicle to such express warranties, notwithstanding the fact that such repairs are made after the expiration of such term. As used in this section, the term “nonconformity” means any specific or generic defect or malfunction, or any concurrent combination of such defects or malfunctions that substantially impairs the use, market value, or safety of a motor vehicle.

(b) If the manufacturer, its agents, distributor, or authorized dealers are unable to conform the motor vehicle to any applicable express warranty by repairing or correcting any defect or condition which substantially impairs the use and market value of the motor vehicle to the consumer after a reasonable number of documented attempts, then the manufacturer shall replace the motor vehicle with a comparable motor vehicle or accept return of the vehicle from the consumer and refund to the consumer the following: the full purchase price including, but not limited to, charges for undercoating, dealer preparation, transportation and installed options, and all collateral charges[,] and incidental expenses, including, but not limited to, towing charges, replacement care¹ rental costs, general excise tax, license and registration fees, title charges, and similar government charges, excluding interest, and less a reasonable allowance for the consumer's use of the motor vehicle. A reasonable allowance for use shall be that amount directly attributable to use by the consumer prior to the consumer's first report of the nonconformity to the manufacturer, agent, distributor, or dealer. The reasonable allowance shall be equal to one per cent of the purchase price for every thousand miles of use. Refunds made pursuant to this subsection shall be deemed to be refunds of the sales price and treated as such for purposes of section 237-3. Refunds shall be made to the consumer, and lienholder, if any, as their interests may appear. [A reasonable allowance for use shall be that amount directly attributable to use by the consumer prior to the consumer's first report of the nonconformity to the manufacturer, agent, distributor, or dealer and during any subsequent period when the motor vehicle is not out of service by reason of repair.] It shall be an affirmative defense to any claim under this section that: (1) an alleged nonconformity does not substantially impair the use and market value of the motor vehicle, or (2) a nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of a motor vehicle by a consumer.

(c) It shall be presumed that a reasonable number of attempts have been undertaken to conform a motor vehicle to the applicable express warranties, if (1) the same nonconformity has been subject to repair three or more times by the manufacturer, its agents, distributor, or authorized dealers within the express warranty term but such nonconformity continues to exist, or (2) the vehicle is out of service by reason of repair for a cumulative total of thirty or more business days during such term. The term of an express warranty and such thirty-day period shall be extended by any period of time during which repair services are not available to the consumer because of a war, invasion, strike, fire, flood or other natural disaster. The presumption provided in this subsection shall not apply against a manufacturer if the manufacturer has not received a written report of the nonconformity from the consumer in accordance with subsection (a), its agent, distributor, or authorized dealer, or if the manufacturer has been denied a reasonable opportunity to repair the nonconformity alleged. Upon a second notice of the nonconformity, or if the vehicle has been out of service by reason of repair for in excess of twenty business days, the dealer shall notify the manufacturer of the nonconformity. During the term of the express warranty, any manufacturer, agent, distributor, or authorized dealer shall provide a written work order to a consumer who delivers a motor vehicle for repair. The consumer shall sign and receive a copy of the work order.

(d) Nothing in this section in any way shall limit the rights or remedies which are otherwise available to a consumer under any other law.

(e) [If a manufacturer has established or participates in an informal dispute settlement procedure which substantially complies with title 16, Code of Federal Regulations, part 703, as from time to time amended, the provisions of subsection (b) concerning refunds or replacement shall not apply to any consumer who has not first resorted to that procedure; provided that the] Any manufacturer, its agents, distributors, or authorized dealers shall provide the consumer at the time of purchase of the motor vehicle a written notice setting forth the terms of [the informal dispute settlement procedure] a state certified arbitration program and a statement of the rights of the consumer under this section in plain language, the form of which has been previously reviewed and approved by the department of commerce and consumer affairs for substantial compliance with title 16, Code of Federal Regulations, part 703, [and] as may be modified by the requirements of [this section.] section 490:2-.

Where the [informal dispute procedure] state certified arbitration program is invoked by the consumer over a new motor vehicle under express warranties, a decision resolving the dispute shall be rendered within forty-five days after the procedure is invoked. If no decision is rendered within forty-five days as required by this subsection, the dispute shall be submitted to the regulated industries [complaint] complaints office, department of commerce and consumer affairs for investigation and hearing.

Any decision rendered resolving the dispute shall provide appropriate remedies including, but not limited to the following:

- (1) Repair of the motor vehicle; or
- (2) Replacement of the motor vehicle with a comparable motor vehicle; or
- (3) Acceptance of the motor vehicle from the consumer and refund of the full purchase price, [including] taxes, and all collateral charges as specified in subsection (b).

The decision shall specify a date for performance and completion of all awarded remedies.

(f) Any action brought under this section shall be commenced within one year following expiration of the express warranty term.

- (g) For the purposes of this section "new motor vehicle" means a new

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motor vehicle which is used or bought for use primarily for personal, family, or household purposes. "New motor vehicle" includes a dealer-owned vehicle and a "demonstrator" or other motor vehicle sold with a manufacturer's new car warranty but does not include a motor vehicle whose gross weight exceeds 10,000 pounds. A "demonstrator" means a vehicle assigned by a dealer for the purpose of demonstrating qualities and characteristics common to vehicles of the same or similar model and type.

(h) The manufacturer shall provide written notice of the provisions of this section directly to the consumer."

SECTION 2. Chapter 490, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§490:2- Arbitration mechanism. (a) The department of commerce and consumer affairs shall establish and monitor a state certified arbitration program which is in substantial compliance with title 16, Code of Federal Regulations, part 703, as may be modified by this section, and shall adopt appropriate rules governing its operation.

(b) The director of commerce and consumer affairs may contract with an independent arbitration organization for annual term appointments to screen, hear, and resolve consumer complaints which have been initiated pursuant to section 490: 2-313.1. The following criteria shall be considered in evaluating the suitability of independent arbitration mechanisms: capability, objectivity, experience, nonaffiliation with manufacturers of or dealers in new motor vehicles, reliability, financial stability, and fee structure.

(c) If a consumer agrees to participate in, and be bound by, the operation and decision of the state certified arbitration program, then all parties shall also participate in, and be bound by, the operation and decision of the state certified arbitration program. The prevailing party of an arbitration decision made pursuant to this section may be allowed reasonable attorney's fees.

(d) The submission of any dispute to arbitration shall not limit the right¹ any party to a subsequent trial de novo upon written demand made within thirty days after service of the arbitration award, and the award shall not be admissible as evidence at that trial. If the party demanding a trial de novo does not improve its position as a result of the trial by at least twenty-five percent, then the court shall order that all of the reasonable costs of trial, consultation, and attorney's fees be paid for by the party making the demand.

(e) Funding of the state certified arbitration program shall be provided through an initial filing fee of \$200 to be paid by the manufacturer and \$50 to be paid by the consumer upon initiating a case for arbitration under this section. Every final decision in favor of the consumer issued by the independent arbitration mechanism shall include within its relief the return of the \$50 filing fee to the consumer."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.²

SECTION 4. This Act shall take effect ninety days after its approval.

(Approved June 7, 1988.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

ACT 189

H.B. NO. 2092

A Bill for an Act Relating to Jurors.

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

SECTION 1. Section 612-8, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Each juror shall be paid \$30 for each day of actual attendance at court. In addition, each juror shall be paid [20] 33 cents for each mile actually and necessarily traveled in going to and from court. A person who appears at the time for which that person is summoned to court for jury duty may be allowed the mileage fee although the person, upon that person’s request, is subsequently excused or exempted from jury service.”

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$230,000, or so much thereof as may be necessary for fiscal year 1988-1989, for the purposes of this Act.

SECTION 3. The sum appropriated shall be expended by the judiciary for the purposes of this Act.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 1988.

(Approved June 7, 1988.)

ACT 190

H.B. NO. 2146

A Bill for an Act Relating to Employee Stock Ownership Programs.

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

SECTION 1. In Act 315, Session Laws of Hawaii 1986, the legislature provided for the establishment of a program to promote expanded opportunities for employee ownership and participation in Hawaii businesses. That Act expires as of June 30, 1988. However, the legislature recognizes the continued need to support and encourage employee ownership and participation in business and therefore, it is the intent of this Act to extend the State’s employee ownership and participation program.

SECTION 2. Act 315, Session Laws of Hawaii 1986, is amended as follows:

1. By amending Section 1 to read:

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

**CHAPTER
EMPLOYEE [STOCK] OWNERSHIP AND PARTICIPATION
PROGRAMS
PART I. GENERAL PROVISIONS**

§ -1 Policy. It is the policy of the State to actively promote and support expanded employee ownership and participation in Hawaii businesses.

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§ -2 Definitions. As used in this chapter, unless the context clearly indicates otherwise:

“Department” means the department of [planning] business and economic development.

“Employee-ownership” means a form of business organization which is either:

- (1) A workers cooperative, within the meaning of subchapter T (sections 1381 to 1388) (with respect to cooperatives and their patrons) of chapter 1 of the federal Internal Revenue Code of 1954, as amended; or
- (2) A corporation in which the employees own stock of the corporation through an employee [stock] ownership and participation plan or other benefit plan which is qualified by section 401 (with respect to qualified pension profit-sharing, and stock bonus plans) of chapter 1 of the federal Internal Revenue Code of 1954, as amended.

“Employee [stock] ownership and participation plan” means an employee benefit plan which is qualified by the Internal Revenue Service pursuant to section 401(a) of the federal Internal Revenue Code of 1954, as amended, and which is intended to invest primarily in employer securities, as defined by section 407(d)(1) of the Employee Retirement Income Security Act of 1974, as amended (P.L. 93-406).

PART II. STATE SUPPORT FOR EMPLOYEE OWNERSHIP AND PARTICIPATION

§ -11 Employee ownership and participation program. The department shall establish a program to support and encourage expanded opportunities for employee ownership and participation in Hawaii businesses.

§ -12 [Regulatory review; annual] Annual report. Each state agency involved in economic development and regulatory activities shall[:

- (1) Conduct a one-time review of all existing rules, policies, and practices of the agency to determine which rules, policies, and practices tend to discourage or otherwise inhibit the implementation of employee ownership.
- (2) Report to the legislature the results of its findings in the study required by paragraph (1) twenty days prior to the convening of the regular session of 1987.
- (3) Annually] annually report to the legislature on steps taken to encourage employee ownership and participation. If no action has been taken, explanation shall be made of the reasons therefor.

§ -13 Powers and duties of department. (a) The department shall assist owners and employees of Hawaii businesses in establishing employee ownership and participation by providing technical assistance, information, or access to sources of financing.

(b) The department shall cooperate with state and federal agencies and commercial lenders in assisting Hawaii companies to obtain loans for the purpose of establishing employee ownership and participation.

(c) The department shall:

- (1) Assist in coordinating the programs of all agencies in encouraging the development of employee [stock] ownership plans and participation;
- (2) Arrange for studies where necessary, secure statistical data or other information, and arrange for the exchange of information between public agencies, private groups, and individuals;

- (3) Provide educational and technical assistance to businesses and individuals desiring to increase the level of employee participation and ownership in Hawaii businesses;
 - (4) Establish a continuing educational and promotional outreach program to publicize the opportunities inherent in employee ownership and participation[.] and encourage academicians and members of the business and labor communities to participate in publicizing and encouraging employee ownership and participation;
 - (5) Review all reports filed by state agencies on efforts to encourage employee ownership and participation, and advise those agencies on ways to further improve those efforts; and
 - (6) Appoint an [employee ownership advisory committee] advisory committee on employee ownership and participation to assist the department in all matters relating to employee ownership, including education, technical assistance, research, promotion, and outreach efforts.
- (d) The department may:
- (1) Employ, without regard to chapters 76 and 77, and at pleasure dismiss such persons as it finds necessary for the performance of its functions and fix their compensation; duties shall include the arranging of conferences, workshops, seminars, and other educational and outreach activities;
 - (2) Secure information from any executive agency of the State it deems necessary to carry out its functions; and
 - (3) Administer funds allocated for its work and accept, disburse, and allocate funds which may become available from other governmental and private sources; provided that all the funds shall be disbursed or allocated in compliance with this chapter and any other applicable laws.

§ -14 Rules. The department may adopt rules pursuant to chapter 91 to implement this chapter.”

2. By amending Section 3 to read:

“SECTION 3. This Act shall take effect on July 1, 1986 and shall be repealed as of June 30, [1988] 1993.”

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

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

(Approved June 7, 1988.)

ACT 191

H.B. NO. 2231

A Bill for an Act Relating to Parking.

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

SECTION 1. Chapter 291C, Hawaii Revised Statutes, is amended by adding a new section to part XI to be appropriately designated and to read as follows:

“§291C- Parking on sidewalks. (a)¹ The director of transportation is authorized to and the counties by ordinance may with respect to highways under their respective jurisdictions prohibit or restrict the stopping, standing, or parking of vehicles on sidewalks.”

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SECTION 2. Section 291C-148, Hawaii Revised Statutes, is amended to read as follows:

"[§291C-148] Driving upon sidewalk. (a) Except as provided in subsection (b), no person shall drive any vehicle upon a sidewalk or sidewalk area except upon a permanent or authorized temporary driveway.

(b) Unless otherwise prohibited, a bicycle may be driven at a speed of ten miles per hour or less on a sidewalk or sidewalk area; provided that the driver of the bicycle shall yield the right of way to any pedestrian and that bicycle riding shall be prohibited on sidewalks in business districts.

(c) This section shall not be construed as preempting the director of transportation's or a counties' authority to control parking on sidewalks under section 291C-. Nor shall this section be construed as prohibiting the director or a county from authorizing parking on sidewalks when the authorization is promulgated in accordance with section 291C-.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.²

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

(Approved June 7, 1988.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

ACT 192

H.B. NO. 2268

A Bill for an Act Relating to Health.

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

SECTION 1. Section 325-16, Hawaii Revised Statutes, is amended to read as follows:

"§325-16¹ Informed consent for testing or disclosure. (a) No health care provider, blood bank, plasma center, or any other public or private agency, institution, or individual may subject a person's body fluids or tissue to a test for the presence of human immunodeficiency virus (HIV) infection unless the subject of the test first provides informed written consent to the testing.

(b) Consent to testing is not required for any of the following:

- (1) Anatomical gifts. A health care provider or organ donor center which procures, processes, distributes, or uses human body parts donated for scientific purposes may, without obtaining consent to the testing, test for the presence of HIV in order to assure medical acceptability of the gift for the purpose intended.
- (2) Research. The department, laboratories and research facilities, health care providers, blood banks, plasma centers, and educational institutions may subject any body fluids or tissue to be used in research to a test for HIV infection if the test is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the researcher.

- (3) Anonymous testing carried out at HIV test sites established by the department provided that informed verbal consent is obtained.
 - (4) Testing of body fluids or tissue which is ordered by a third party, so long as that third party, including but not limited to an insurance company, employer, or school, obtains the informed written consent of the person to be tested authorizing the release of the test results to the third party, and transmits a signed copy of the written informed consent to the health provider prior to any release of the requested test results to the third party.
 - (5) [Health and safety of the client. Informed consent is not required when there is reason to believe that the safety of the client may be in imminent jeopardy because of possible HIV infection.] Patient diagnosis or treatment. Informed consent is not required where the patient is unable to give consent and it is determined by the patient's treating physician that the patient's HIV status is necessary (A) to make a diagnosis, or (B) to determine an appropriate course of treatment for the patient. The patient shall be informed in a timely manner that a test for the presence of HIV has been performed pursuant to the provisions of this paragraph and the patient shall be provided the opportunity to obtain the test results and appropriate counselling.
 - (6) Health and safety of health care providers. Informed consent is not required when there is reason to believe that the safety of health care providers may be in imminent jeopardy due to exposure to the blood or bodily fluids of a patient suspected of possible HIV infection.]
 - (6) Protection of health care workers. A treating physician may order an HIV test without the patient's informed consent if the physician has determined that the patient is incapable of giving consent prior to the rendering of treatment and when there is reason to believe that the safety of health care providers may be affected due to exposure to the blood or bodily fluids of a patient suspected of possible HIV infection. The availability and quality of health care services shall not be compromised based on the findings and testing performed pursuant to this paragraph. The costs of any testing performed shall be borne by the health care provider and may not be claimed against the patient or the patient's health care insurer. The patient shall be informed in a timely manner that a test for the presence of HIV has been performed pursuant to the provisions of this paragraph, and the patient shall be provided the opportunity to obtain the test results and appropriate counseling.
- (c) Confidentiality. The confidentiality of all records held pursuant to this section is governed by section 325-101.
- (d) Civil penalty. Any person or institution who willfully violates any provision of this section shall be fined not less than \$1,000 nor more than \$10,000 for each violation plus reasonable court costs and attorney's fees as determined by the court, which penalty and costs shall be paid to the person whose records were released. This subsection shall not be construed as limiting the right of any person or persons to recover actual damages.
- (e) Good faith exception. No health care provider, blood bank, plasma center, or any other public or private agency, institution, or individual, which, in good faith, provides results of any test for the presence of HIV infection to a specified third party as the result and in response to an informed written consent by the person to be tested, shall be in violation of confidentiality requirements pursuant to this section and governed by section 325-101 if the test results later prove to be false or otherwise defective.

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(f) The department shall adopt rules, pursuant to chapter 91, to establish procedures and standards to implement this section."

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

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

(Approved June 7, 1988.)

Note

1. So in original.

ACT 193

H.B. NO. 2278

A Bill for an Act Relating to the Hawaii Criminal Justice Commission.

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

SECTION 1. Section 843-1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Commencing on July 1, [1987,] 1988, there is established within the department of [corrections,] the attorney general, for administrative purposes only, the Hawaii criminal justice commission. This commission shall have its existence terminated, if not renewed by the legislature, on June 30, [1988.] 1994."

SECTION 2. Section 843-3, Hawaii Revised Statutes, is amended to read as follows:

"§843-3 Commission, functions. The commission shall have the following functions and shall perform the following duties:

- (1) Research, evaluate, and make recommendations regarding the criminal justice system; and
- (2) Develop, recommend, and implement public education programs relating to the criminal justice system.]
- (1) Provide a mechanism for citizen and community input into governmental activities with regard to crime prevention and reduction;
- (2) Develop statewide crime prevention programs and activities;
- (3) Develop public education programs through various media to provide citizens with the knowledge and confidence to prevent crime and to avoid becoming a victim of crime;
- (4) Provide statewide training programs for law enforcement agencies, citizens, businesses, and civic groups in areas of crime prevention;
- (5) Assist in the organization of crime prevention teams in communities to encourage the development of community crime prevention programs;
- (6) Establish, as necessary, citizen and government task forces to study high priority crime problems that affect the entire State and to make recommendations for future action;
- (7) Establish a center for public safety at which citizens, criminal justice agencies, businesses, and civic groups can be educated about, be trained in, and gather information on crime prevention;

- (8) Act as a clearinghouse for crime prevention information; and
- (9) Establish a communication network among criminal justice agencies to foster statewide cooperation and planning.”

SECTION 3. (a) All rights, powers, functions, and duties of the department of corrections relating to the Hawaii criminal justice commission are transferred to the department of the attorney general.

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.

In the event that 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.

(b) 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 corrections relating to the functions transferred to the department of the attorney general shall be transferred with the functions to which they relate.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$442,028, or so much thereof as may be necessary for fiscal year 1988-1989, to the Hawaii criminal justice commission. The sum appropriated shall be expended by the department of the attorney general for the purposes of this Act.

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

SECTION 6. This Act shall take effect on July 1, 1988.

(Approved June 7, 1988.)

A Bill for an Act Relating to the Department of Health.

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

SECTION 1. The purpose of this Act is to provide authority to the department of health to implement the requirements of the Asbestos Hazard Emergency Response Act of 1986 (AHERA), Public Law 99-519. Under AHERA, the State is to establish an accreditation plan covering inspectors, management planners, and persons who design or carry out removal of materials containing asbestos from school buildings. This Act is also intended to authorize the department of health to require accreditation when the inspection, planning, and design or removal of materials containing asbestos is from any public or private building.

SECTION 2. Section 321-11, Hawaii Revised Statutes, is amended to read as follows:

“§321-11 Subjects of health rules, generally. The department of health pursuant to chapter 91 may adopt rules as it deems necessary for the public health and safety respecting:

- (1) Nuisances, foul or noxious odors, gases, vapors, waters in which mosquitoes breed or may breed, sources of filth, and causes of sickness or disease, within the respective districts of the State, and on board any vessel;
- (2) Adulteration and misbranding of food or drugs;
- (3) Location, air space, ventilation, sanitation, drainage, sewage disposal, and other health conditions of buildings, courts, construction projects, excavations, pools, watercourses, areas, and alleys;
- (4) Privy vaults and cesspools;
- (5) Fish and fishing;
- (6) Interments and dead bodies;
- (7) Disinterments of dead human bodies, including the exposing, disturbing, or removing of such bodies from their place of burial, or the opening, removing, or disturbing after due interment of any receptacle, coffin, or container holding human remains or a dead human body or a part thereof and the issuance and terms of permits for the aforesaid disinterments of dead human bodies;
- (8) Cemeteries and burying grounds;
- (9) Laundries, and the laundering and sterilization of all articles of linen and uniforms used by or in the following businesses and professions: barber shops, manicure shops, beauty parlors, restaurants, soda fountains, hotels, rooming and boarding houses, bakeries, butcher shops, public bathhouses, midwives, masseurs, and others in similar calling, public or private hospitals, and canneries and bottling works where foods or beverages are canned or bottled for public consumption or sale; provided that nothing in this chapter shall be construed as authorizing the prohibiting of such laundering and sterilization by those conducting any of such businesses or professions where the laundering or sterilization is done in an efficient and sanitary manner;
- (10) Hospitals, freestanding surgical outpatient facilities, skilled nursing facilities, intermediate care facilities, adult residential care homes, adult foster homes, special treatment facilities and programs, home health agencies, freestanding birthing facilities, adult day health centers, independent group residences, but excluding youth shelter facil-

- ties unless clinical treatment of mental, emotional, or physical disease or handicap is a part of the routine program or constitutes the main purpose of the facility, as defined in section 346-16 under "child care institution". For the purpose of this paragraph, "adult foster home" means a private home providing care on a twenty-four hour basis for not more than two developmentally disabled adults at any point in time who are unrelated to the foster family;
- (11) Hotels, rooming houses, lodging houses, apartment houses, tenements, and residences for persons with developmental disabilities including, but not limited to, those built under federal funding;
 - (12) Laboratories;
 - (13) Any place or building where noisome or noxious trades or manufacturers are carried on, or intended to be carried on;
 - (14) Milk;
 - (15) Poisons and hazardous substances, the latter term including, but not limited to, any substance or mixture of substances which (A) is corrosive, (B) is an irritant, (C) is a strong sensitizer, (D) is inflammable, or (E) generates pressure through decomposition, heat, or other means, if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children;
 - (16) Pig and duck ranches;
 - (17) Places of business, industry, employment, commerce, and processes, materials, tools, machinery, and methods of work done therein, and places of public gathering, recreation, or entertainment;
 - (18) Any restaurant, theater, market, stand, shop, store, factory, building, wagon, vehicle, or place where any food, drug, or cosmetic is manufactured, compounded, processed, extracted, prepared, stored, distributed, sold, offered for sale, or offered for human consumption or use;
 - (19) Foods, drugs, and cosmetics, and the manufacture, compounding, processing, extracting, preparing, storing, selling, and offering for sale or for consumption or use of any food, drug, or cosmetic;
 - (20) Devices as defined in section 328-1;
 - (21) Sources of ionizing radiation;
 - (22) Medical examination, vaccination, revaccination, and immunization of school children. No child shall be subjected to such medical examination, vaccination, revaccination, or immunization, whose parent or guardian shall in writing object thereto on grounds that such requirements are not in accordance with the religious tenets of an established church of which he is a member or adherent, but no such objection shall be recognized when, in the opinion of the department, there is danger of an epidemic from any communicable disease;
 - (23) Disinsectization of aircraft entering or within the State as may be necessary to prevent the introduction, transmission, or spread of disease or the introduction or spread of any insect or other vector of significance to health;
 - (24) Fumigation. The process by which substances emit or liberate gases, fumes, or vapors which may be used for the destruction or control of insects, vermin, rodents, or other pests, which, in the opinion of the department, may be lethal, poisonous, noxious, or dangerous to human life; [and]

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- (25) Ambulances and ambulance equipment[.]; and
- (26) Development, review, approval, or disapproval of management plans submitted pursuant to the Asbestos Hazard Emergency Response Act of 1986, Public Law 99-519.

The department may require such certificates, permits, or licenses as it may deem necessary to adequately regulate the conditions or businesses referred to in this section."

SECTION 3. Section 321-13, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The department of health with the approval of the governor, may prescribe such rules as it deems necessary for the public health or safety respecting:

- (1) The occupations or practices of midwives, laboratory directors, laboratory technologists, laboratory supervisors, laboratory technicians, tattoo artists, electrologists, [and] sanitarians[.], asbestos inspectors, asbestos management planners, and asbestos abatement project designers;
- (2) The health, education, training, experience, habits, qualifications, or character of persons to whom certificates of registration or permits for such occupations or practices may be issued;
- (3) The health, habits, character, practices, standards, or conduct of persons holding such certificates or permits; or
- (4) The grounds or causes for revoking or suspending such certificates or permits.

Such rules shall have the force and effect of law."

SECTION 4. Section 321-15.1, Hawaii Revised Statutes, is amended by adding three new definitions to be appropriately inserted and to read as follows:

"Asbestos inspector" means a person who is accredited to identify asbestos-containing building material and to assess its physical condition.

"Asbestos management planner" means a person who is accredited to use the data gathered by asbestos inspectors to assess the current or potential hazard posed by the asbestos-containing building material, to determine the appropriate response actions, and to develop a schedule for implementing these response actions.

"Asbestos abatement project designer" means a person who is accredited to determine how the asbestos abatement work should be conducted."

SECTION 5. The department of health shall adopt rules pursuant to chapter 91 for the implementation of Section 3 of this Act within one year of the effective date of this Act, or sooner.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$54,000, or so much thereof as may be necessary for fiscal year 1988-1989, to carry out the purposes of this Act. The sum appropriated shall be expended by the department of health.

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

SECTION 8. This Act shall take effect upon its approval; provided that Section 6 shall take effect on July 1, 1988.

(Approved June 7, 1988.)

ACT 195

H.B. NO. 3041

A Bill for an Act Relating to the Diamond Head State Monument.

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

SECTION 1. The purpose of this Act is to establish and implement plans for the Diamond Head State Monument.

SECTION 2. Section 6E-32, Hawaii Revised Statutes, is amended to read as follows:

"[§6E-32] Diamond Head State Monument. There shall be a Diamond Head State Monument as an historical site on Oahu to be administered by the department of land and natural resources, and to consist of such lands as the department considers essential to the unimpaired preservation of the visual and historic aspects of Diamond Head and such state lands as more fully described in this section as may be best used for recreational purposes and to increase public access and enjoyment of the [Monument.] monument. All state lands within and adjacent to the [Monument] monument shall be returned to the department for inclusion within the [Monument,] monument including but not limited to lands identified by Tax Map Key Numbers 3-1-42: 6, 8, 10, 17, 21, 23, 24, and 25, except for land upon which is situated a structure in active use for the purposes originally disposed of. The Na Laau Hawaii arboretum and parcels A, B, C, and D as described in Executive Order No. 2000 dated April 9, 1962, establishing the Diamond Head State Monument, shall be included within the boundaries of the Diamond Head State Monument."

SECTION 3. 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 1988-1989, to design the Diamond Head State Monument. The sum appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval, provided that section 3 shall take effect on July 1, 1988.

(Approved June 7, 1988.)

ACT 196

H.B. NO. 3261

A Bill for an Act Relating to Financial Institutions.

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
EMERGENCY ACQUISITION OF FINANCIAL INSTITUTIONS
PART I. GENERAL PROVISIONS**

§ -1 Purpose. The purpose of this chapter is to set forth the provisions which will govern the emergency acquisition of a state-chartered financial institution where it has been determined that the state-chartered financial institution has failed or is in danger of failing.

§ -2 Definitions. As used in this chapter, unless the context otherwise requires:

“Bank holding company” means any company that is a bank holding company under the federal Bank Holding Company Act of 1956, as amended, 12 U.S.C. 1841 et. seq.

“Control” means direct or indirect ownership of or to vote twenty-five percent or more of the outstanding voting shares of a state-chartered financial institution or to control in any manner the election of a majority of the directors of a state-chartered financial institution.

“Commissioner” means the State commissioner of financial institutions.

“Division” means the State division of financial institutions within the department of commerce and consumer affairs.

“FDIC” means the Federal Deposit Insurance Corporation.

“State-chartered financial institution” means (1) a state-chartered bank whose deposits are insured by the FDIC; (2) an industrial loan company licensed under chapter 408 whose investment or thrift certificates are insured by the FDIC; or (3) for purposes of participating in any acquisition offered to state-chartered institutions, national banks, whose principal place of business is in this State.

“State-chartered financial institution in danger of failing” means a state-chartered bank or industrial loan company, as those terms are defined in this chapter that:

- (1) Is not likely to be able to meet the demands of its depositors or its investment or thrift certificate holders or pay its obligations in the normal course of business, and there is no reasonable prospect that it will be able to meet such demands or pay such obligations; or
- (2) Has incurred or is likely to incur losses that will deplete all or substantially all of its capital and there is no reasonable prospect for the replenishment of the institution’s capital; or
- (3) Is insolvent as defined in section 403-6 as that section now exists or as it may be recodified, amended, or renumbered; or
- (4) Is an institution whose capital is impaired as defined by sections 403-161 and 403-162; or
- (5) Is an institution which the commissioner has determined to be suffering from severe financial conditions and circumstances which threaten the future financial stability of the institution and will require the financial assistance of the FDIC to facilitate an acquisition of its stock, an acquisition of its assets and assumption of its liabilities, or its merger with another corporation; or
- (6) Is an institution which has requested or agreed in a cease and desist order or similar order that the provisions of this chapter can be applied.

“Principal place of business” of a national bank or a bank holding company means that state in which the deposits of the national bank or the total deposits of the bank holding company’s banking subsidiaries are the largest.

PART II. ACQUISITION PROCEDURES

§ -3 Acquisition of a failing state-chartered financial institution. (a) Upon determining that a state-chartered financial institution is in danger of failing, the commissioner shall set forth his decision in writing and deliver a copy of the decision to the institution in question. Upon delivery of his decision, the commissioner shall be entitled to apply any of the provisions set forth in this chapter or in any administrative rules which have been adopted to implement this chapter in order to facilitate the acquisition of the state-chartered financial institution in danger of failing. The commissioner, therefore, may:

- (1) Accept applications from other state-chartered financial institutions or their bank holding companies, as well as national banks whose principal place of business is in this State, to:
 - (A) Acquire all or portions of the assets of the state-chartered financial institution in danger of failing and to assume that institution's liabilities; or
 - (B) Acquire all or portions of the capital stock of the state-chartered financial institution in danger of failing; or all or portions of the capital stock of any bank holding company of the state-chartered financial institution; or
 - (C) Acquire all or portions of the capital stock of an institution organized under section -7 of this chapter which institution (i) has merged or will merge with the state-chartered financial institution in danger of failing, or of the bank holding company of the state-chartered financial institution; or (ii) has acquired or will acquire all or portions of the capital stock of the state-chartered financial institution in danger of failing or of any bank holding company of the state-chartered institution; or (iii) has or will acquire the assets and assume the liabilities of the state-chartered financial institution or of any bank holding company affiliated with the state-chartered financial institution; or
 - (D) Merge with the state-chartered financial institution in danger of failing or with any bank holding company affiliated with the state-chartered financial institution.
- (2) Accept applications from natural persons who are residents of the state to:
 - (A) Acquire all or portions of the capital stock of the state-chartered financial institution in danger of failing; or all or portions of the capital stock of any bank holding company of the state-chartered financial institution; or
 - (B) Acquire all or portions of the capital stock of an institution organized under section -7 of this chapter which institution has (i) merged or will merge with the state-chartered financial institution in danger of failing, or of the bank holding company of the state-chartered financial institution; or (ii) has acquired or will acquire all or portions of the capital stock of the state-chartered financial institution in danger of closing, or of any bank holding company of the state-chartered financial institution; or (iii) has or will acquire the assets and assume the liabilities of the state-chartered financial institution in danger of failing or of any bank holding company of the institution.

(b) A state-chartered financial institution in danger of failing which seeks to contest the determination of the commissioner may petition the circuit court of the first circuit to hear and review the commissioner's determination. Such a petition

must be filed within five days of the issuance of the commissioner's determination. A hearing on the petition shall be held not more than fifteen days after the petition is filed. A hearing under this subsection may be held privately in chambers and it shall be so held if the state-chartered financial institution or the commissioner so requests. An order made pursuant to this subsection by the court may be appealed to the supreme court. In all proceedings and hearings under this subsection, all records, documents and files of the state-chartered financial institution, the division, and the court, so far as they pertain to or are part of the record of the proceedings, shall be and remain confidential. The court may, after hearing the arguments from the parties in chambers, order disclosure of documents for good cause. Unless otherwise ordered, all papers filed with the court shall be held in a confidential file.

§ -4 Applications. Any application filed with the commissioner under Part II of this chapter shall contain such information as the commissioner may require. Applicants shall be required to meet the criteria established by the commissioner. The commissioner may develop such criteria in conjunction with the FDIC and the primary regulator of the applicant.

§ -5 Evaluation of applicants. In evaluating applications filed under Part II of this chapter, the commissioner shall consider the following factors:

- (1) Whether immediate action is necessary in order to prevent the probable failure of the state-chartered financial institution and to protect the institution's depositors and creditors;
- (2) The financial and managerial resources of the applicants, together with the financial and managerial resources of any parent companies, holding companies or other companies that control, either directly or indirectly, the applicants;
- (3) The future prospects for the viability of the state-chartered financial institution in danger of failing after the acquisition or merger has been completed;
- (4) Whether the FDIC is prepared to offer financial assistance to facilitate the acquisition or merger and the amount of such assistance;
- (5) Whether the proposed acquisition or merger would result in a monopoly or would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize business in the relevant financial market served by the state-chartered financial institution in danger of failing;
- (6) Whether the proposed acquisition or merger would substantially lessen competition or tend to create a monopoly or in any other manner would be a restraint of trade in the relevant financial market served by the state-chartered financial institution in danger of failing, unless the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable benefits of the transaction in meeting the convenience and needs of the relevant financial market to be served;
- (7) The convenience and needs of the people of the State; and
- (8) Any other factors which the commissioner may deem relevant.

§ -6 Granting of application. (a) The commissioner is expressly authorized to grant any application which may be filed under Part II of this chapter. In considering applications submitted under Part II of this chapter, the commissioner shall only consider applications from state-chartered financial institutions, their bank holding companies, national banks whose principal place of business is in this state and natural persons who are residents of this state.

(b) No acquisition which is being made pursuant to this chapter shall be effective without the express written approval of the commissioner. Any financial institution or natural person that makes an acquisition pursuant to this chapter shall comply with the instructions, limitations, restrictions and other directives issued by the commissioner in connection with any approval of the application for acquisition.

§ -7 Provisional charter. (a) To facilitate the taking of action with respect to a state-chartered financial institution in danger of failing as defined in this chapter, a domestic corporation may be organized under this section and chapter 415, solely for the purpose of merging with or acquiring the stock or assets and assuming the liabilities of:

- (1) A state-chartered financial institution in danger of failing, or the bank holding company of that institution; or
- (2) A state-chartered financial institution that has been or is being liquidated by the commissioner pursuant to chapter 403.

(b) Except as otherwise provided in this section, an institution organized under this section may not engage in nor transact a banking, industrial loan or trust business.

(c) Applications for a provisional charter shall be filed by a corporation and shall provide such information which the commissioner shall require along with an application fee of \$1,000.

(d) The purpose of the institution shall be limited to the purposes specified in this section. However, if the corporation is to be the resulting or surviving bank or industrial loan company in a merger or other acquisition, the articles of incorporation may also contain all purposes allowed a state-chartered institution under chapters 403 or 408, if the implementation of such purposes are conditioned upon the consummation of the merger or acquisition. Upon issuance of its articles of incorporation and with the approval of the commissioner, the corporate existence of the corporation shall begin and the corporation may issue stock.

(e) A provisional charter issued pursuant to this section shall expire one year after its date of issuance. However, the commissioner may extend the expiration period for good cause. If the acquisition or merger for which the institution was organized is not consummated before the provisional charter expires, the interim corporation shall cease to exist and its articles of incorporation and charter shall be void. If the acquisition or merger is consummated, the commissioner shall issue to the corporation a charter or license to do business pursuant to chapters 403 or 408.

§ -8 Disapproval of acquisition. The commissioner may disapprove or deny an application which has been filed pursuant to this chapter if any provisions of this chapter or any rules implementing this chapter have not been complied with. The commissioner may also deny an application for any of the grounds which would justify a denial or disapproval under chapters 403 or 408 or any administrative rules implementing those chapters.

§ -9 Powers and privileges of state-chartered financial institution after acquisition. A state-chartered financial institution in danger of failing or a state-chartered bank that has been liquidated by the commissioner and which, in either case has been acquired pursuant to this chapter shall have the same rights, powers, and privileges as an institution holding a state charter or license issued pursuant to chapters 403 or 408.

§ -10 Construction of chapter. This chapter shall not be construed to limit, modify, or restrain any other powers now granted to the commissioner or the division

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of financial institutions. In construing this chapter, the provisions set forth shall be considered to supplement and provide an alternative to any other authority presently granted to the commissioner in dealing with state-chartered financial institutions. This chapter shall also apply to the extent permitted by federal law, to any national bank whose principal place of business is in this State which is in danger of failing.

§ -11 Rule-making. The commissioner is authorized to adopt administrative rules in accordance with chapter 91, to implement the purposes of this chapter. The commissioner is also authorized to adopt new application forms or to modify any existing application forms to implement this chapter.

§ -12 Modification of time periods. Any time periods requiring action by the commissioner as set forth in this chapter or as established by administrative rules implementing this chapter may be shortened or extended when the commissioner, in his discretion, determines that good cause for such a modification exists.

§ -13 Examination, supervision and regulation. The commissioner may examine and supervise any state-chartered financial institution or its bank holding company, if any, which has been authorized to do business pursuant to this chapter. Such institutions and holding companies are subject to regulation, supervision, examination and examination fees in accordance with chapters 403 or 408.

§ -14 Severability. (a) The legislature intends to allow the emergency acquisition of state-chartered financial institutions only under the conditions set forth in this chapter. If any provision of this chapter or the application thereof to any person or circumstance is held unconstitutional before an acquisition has been effected under this chapter, then it is the intent of the legislature that no acquisitions shall be allowed except as was provided under existing State law prior to the enactment of this chapter.

(b) In the event any provision of this chapter or the application thereof to any person or circumstance is held unconstitutional after an acquisition has been effected under this chapter, then it is the intent of the legislature that the remainder of the chapter shall not be affected thereby and it shall be conclusively presumed that the legislature would have enacted the remainder of this chapter without such invalid or unconstitutional provision. To the extent permissible the court may issue such orders and instructions which it deems just and equitable to prevent divesture¹ of any acquisition which has been effected after the enactment of this chapter.

§ -15 Discretionary function. In the absence of actual malice, the State, the commissioner, the division and its employees, agents and attorneys will not be subject to civil liability for libel, slander, or any other cause of action by virtue of their examinations or conduct in implementing this chapter."

SECTION 2. This Act shall take effect upon approval.

(Approved June 7, 1988.)

Note

1. Should probably read "divestiture".

ACT 197

H.B. NO. 3286

A Bill for an Act Relating to Licensing of Psychologists.

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

SECTION 1. Section 465-1, Hawaii Revised Statutes, is amended by amending the definition of "psychologist" to read:

"Psychologist" means a person who [engages in the practice of psychology.] offers to the public or renders to individuals or to groups of individuals services defined as the practice of psychology. A person represents to be a psychologist if that person uses any title or description of services incorporating the words "psychology," "psychological," or "psychologist"."

SECTION 2. Section 465-3, Hawaii Revised Statutes, is amended to read as follows:

"§465-3 [Exceptions.] Exemptions. (a) This chapter shall not apply to:

- (1) Any person teaching, lecturing, consulting, or engaging in research in psychology insofar as the activities are performed as part of or are dependent upon employment in a college or university; provided that the person shall not engage in the practice of psychology as defined in section 465-1 outside the responsibilities of the person's employment;
- (2) Any person who performs any, or any combination of the professional services defined as the practice of psychology in section 465-1 under the direction of a [person who is qualified under this chapter;] licensed psychologist in accordance with rules adopted by the board; provided that the person may use the term "psychological assistant", but shall not identify the person's self as a psychologist or imply that the person is licensed to practice psychology;
- (3) Any person employed by a local, state, or federal government agency [whose psychologists must qualify for employment under government licensing or under civil service regulations, but only at those times when that person is carrying out the functions of such governmental employment; or] in a school psychologist or psychological examiner position, or a position that does not involve diagnostic or treatment services, but only at those times when that person is carrying out the functions of such government employment; or
- (4) Any person who is a student of psychology, a psychological intern, or a resident in psychology preparing for the profession of psychology under supervision in a training institution or facility and who is designated by a title as "psychology trainee" [or], "psychology student", "psychology intern," or "psychology resident", which indicates the person's training status; provided that the person shall not identify the person's self as a psychologist or imply that the person is licensed to practice psychology.

(b) Nothing in this chapter shall in any way restrict any person from carrying on any of the psychological activities as defined in section 465-1; provided that such person does not offer psychological services as defined in this chapter except as such activities are incidental to the person's lawful occupational purpose.

(c) A person may use the title of industrial/organizational psychologist, provided that the person registers with the board, and:

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- (1) Is professionally competent in the practice of industrial/organizational psychology; and
 - (2) Holds a doctoral degree from an accredited institution of higher education with training and education in industrial/organizational psychology, satisfactory to the board[.]; and
 - (3) Provides psychological service or consultation to organizations which does not involve the delivery or supervision of direct psychological services to individuals or groups of individuals, without regard to the source or extent of payment for services rendered.
- (d) Nothing in this chapter shall prevent the provision of expert testimony by a psychologist who is otherwise exempted by this chapter.
- [(d)] (e) Nothing in this chapter shall be construed as permitting the administration or prescription of drugs, or in any way engaging in the practice of medicine as defined in the laws of the State."

SECTION 3. Chapter 465, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§465- Licensure of state employed clinical psychologists. (a) A psychologist providing diagnostic or treatment services in a clinical psychologist civil service position shall be licensed under this chapter; provided that a psychologist employed in a clinical psychologist position with a government agency in this State prior to January 1, 1988 shall be eligible for licensure subject to:

- (1) Meeting the requirements of section 465-7(1) and (4); provided that the examination requirement shall be limited to the state jurisprudence examination;
 - (2) Holding or having held the non-emergency hire position for two years; and
 - (3) Obtaining licensure before June 30, 1990.
- (b) A psychologist employed in a civil service clinical psychologist position in this State after January 1, 1988 shall be licensed subject to:
- (1) Meeting the requirements of section 465-7; and
 - (2) Obtaining licensure within two years from the date of employment.
- (c) After the time period of subsections (a)(3) or (b)(2) has expired, a psychologist, employed in a civil service clinical psychologist position rendering diagnostic or treatment services, who has not obtained a license, shall immediately cease and desist the practice of psychology until a license is obtained pursuant to this chapter."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

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

(Approved June 7, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 198

H.B. NO. 3528

A Bill for an Act Relating to Dispensing Opticians.

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

SECTION 1. Section 458-14, Hawaii Revised Statutes, is amended to read as follows:

“§458-14 Exceptions; acts not prohibited. (a) Nothing in this chapter applies to any physician, [or] optometrist, or ophthalmologist licensed under the laws of the State, nor shall anything in this chapter contained prohibit the sale of glasses, sun glasses, colored glasses, or occupational eye devices if they do not have refractive values.

(b) Nothing in this chapter shall be construed to prohibit a certified ocularist as recognized by the American Society of Ocularists from performing within the scope of such certification; provided that the ocularist performs only those functions dealing with the designing, fitting, and fabricating of artificial eyes, and not contact lenses of refractive value, and is under the supervision of a licensed ophthalmologist or optometrist. The ocularist shall inform the board in writing of the name of the supervising ophthalmologist or optometrist.”

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

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

(Approved June 7, 1988.)

ACT 199

H.B. NO. 3523

A Bill for an Act Relating to Income Tax Refunds.

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

SECTION 1. Section 231-51, Hawaii Revised Statutes, is amended to read as follows:

“§231-51 Purpose. The purpose of sections 231-52 to 231-59 is to permit the retention of state income tax refunds of those persons who owe a debt to the State, who are delinquent in the payment of child support, [or] who have defaulted on an education loan note held by the United Student Aid Funds, Inc., or who owe federal income taxes to the United States Treasurer.”

SECTION 2. Section 231-52, Hawaii Revised Statutes, is amended to read as follows:

“§231-52 Definitions. As used in sections 231-51 to 231-59, unless the context otherwise requires:

“Claimant agency” includes any state agency, board, commission, department, institution, or other state organization, or any subdivision thereof. In the case of delinquent child support, “claimant agency” means the child support enforcement agency or an agency under cooperative agreement with the department whenever the department is required by law to enforce a support order on behalf

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of an individual. "Claimant agency" includes the department of budget and finance when acting on behalf and at the request of the United Student Aid Funds, Inc. to collect defaulted education loan notes incurred under the federal Higher Education Act of 1965 (Public Law 89-329, 79 Stat. 1219), as amended; provided that the department has a contract with the United Student Aid Funds, Inc. under chapter 309 when acting as a claimant agency. "Claimant agency" includes the department of taxation when acting on behalf and at the request of the Internal Revenue Service under the United States Department of the Treasury, and when the Internal Revenue Service is authorized by federal law to administratively impose a levy upon a refund of a debtor in satisfaction of the federal income taxes assessed under Internal Revenue Code of 1986, as amended.

"Debt" includes either:

- (1) Any delinquency in periodic court-ordered payments for child support in an amount exceeding the sum of payments which would become due over a one-month period; or
- (2) Any liquidated sum exceeding \$25 which is due and owing any claimant agency, regardless of whether there is an outstanding judgment for that sum, and whether the sum has accrued through contract, subrogation, tort, operation of law, or judicial or administrative judgment or order; or
- (3) Any defaulted education loan note held by the United Student Aid Funds, Inc. incurred under the federal Higher Education Act of 1965 (Public Law 89-329, 79 Stat. 1219), as amended[.]; or
- (4) Any federal income taxes due and owing to the United States Treasurer.

"Debtor" includes any person who owes a debt to any claimant agency, who is delinquent in payment of court-ordered child support payments [or], who has defaulted on an education loan note held by the United Student Aid Funds, Inc. incurred under the federal Higher Education Act of 1965 (Public Law 89-329, 79 Stat. 1219), as amended[.], or who owes federal income taxes to the United States Treasurer.

"Refund" includes any state income tax refund which is or will be due any debtor, or any other sums due to a debtor from the State."

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

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

(Approved June 7, 1988.)

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H.B. NO. 3570

A Bill for an Act Relating to Support.

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

SECTION 1. Chapter 576, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§576- Interstate request for income withholding. (a) Upon receipt by the agency, as defined in Section 576D-1, of a request from another state for enforcement of a support order by income withholding, which request is accompanied by a certified copy of the support order, the agency may enter an income withholding order as authorized in section -16 or forward the request and support order to the court for filing.

(b) If the request is forwarded to the court, the certified copy of the support order shall be filed with the court. The support order so filed has the same effect and shall be enforced in the same manner as a support order rendered by a court of this state or by the agency. The agency shall notify the obligor that unless the obligor contests it, an order for income withholding pursuant to the procedures in section 571-52. , shall automatically issue thirty days after the mailing of the notice. An obligor may contest the issuance of an income withholding order under this section by filing with the agency a statement of objections within twenty days from the date of receipt of the notice of the pending order for income withholding. If no such statement of objections is received, the court shall issue an income withholding order upon the expiration of the thirty day period. If a statement of objections is made within this time, the agency shall notify the court to set the matter for a hearing. At the hearing, the court shall determine whether an income withholding order shall issue and the amount thereof. The only basis for contesting a withholding under this section is a mistake of fact, which, for purposes of this section, means an error in the amount of current or overdue support or in the identity of the alleged absent parent.”

SECTION 2. Section 571, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§571-52. Immediate Income Withholding. In any case where child support is an issue, and an order for child support is established or modified, and the obligor receives income on a periodic basis, the court shall concurrently enter an order for immediate income withholding which shall operate as an assignment by the person to the child support enforcement agency for the benefit of the child of such amounts at such times as may be specified in the child support order. Such order may also include child support arrears and/or reimbursement of debt pursuant to §346-37.1. The provisions of section 571-52.2(d), (e), (f), (g), (l), (m) and (n) shall apply to all orders for immediate income withholding issued under this section.”

SECTION 3. Section 576-25, Hawaii Revised Statutes, is amended to read as follows:

“§576-25 Officials to represent [plaintiff]. Where in any case initiated in a court of this State the plaintiff is unable to hire private counsel, the county attorney or corporation counsel upon request of the child support enforcement agency shall represent the plaintiff, except that fees may be charged as provided for by chapter 576D. The county attorney or corporation counsel of each county shall represent the plaintiff in any case in which the State is the responding state, provided that the plaintiff may employ private counsel and in such event the county attorney or corporation counsel shall not be obligated to act save as requested by the court.] agency. The county attorney or corporation counsel, under cooperative agreement, or the attorney general, may represent the child support enforcement agency in cases arising under this chapter. A fee may be charged to the person applying for child support enforcement agency assistance as provided by law. In any case in which the State is the responding state, the child support enforcement agency may appear by counsel.”

SECTION 4. Section 576D-3, Hawaii Revised Statutes, is amended to read as follows:

“[§576D-3] Obtaining or enforcing child support. (a) The agency shall

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undertake any legal or administrative action to secure support for a child by enforcing an existing court order or obtaining a court order of support.

(b) In order to carry out its responsibilities imposed under this chapter, the agency, through the offices of the corporation counsel [or], the county attorneys, or the attorney general, may commence or appear in any proceeding before any court or administrative agency for the purpose of establishing paternity for children born out of wedlock or for the purpose of obtaining, enforcing, or modifying an order of support on behalf of any dependent or any other person for whom the agency has a duty to obtain or enforce an order of support under this chapter. The agency may commence or appear in any action on its own behalf, on behalf of any dependent child or custodial parent, or on behalf of any other person for whom the agency has a duty to obtain or enforce an order of support under this chapter. The agency shall obtain or enforce a child support order for the following children:

- (1) A child on whose behalf public assistance payments have been or are being made;
- (2) A child on whose behalf foster care payments have been or are being made under Title IV-E; or
- (3) A child on whose behalf a custodial parent, guardian, or other person having custody applies to the agency for assistance in obtaining or enforcing a child support order, whether or not public assistance payments have been made on the child's behalf."

SECTION 5. Section 571-52.1, Hawaii Revised Statutes, is repealed.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

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

(Approved June 7, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 201

S.B. NO. 2405

A Bill for an Act Relating to Health Insurance.

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

SECTION 1. Act 347, Session Laws of Hawaii 1987, Section 2, is amended by adding a new section to part I of Article 10A of chapter 431 to be appropriately designated and to read as follows:

"§431:10A- Coverage for child health supervision services. (a) All health insurance policies issued in this State which provide coverage for the children of the insured shall provide coverage for child health supervision services from the moment of birth through age five years. These services shall be exempt from any deductible provisions which may be in force in these policies or contracts.

(b) Child health supervision services shall include twelve visits at approximately the following intervals: birth; two months; four months; six months; nine months; twelve months; fifteen months; eighteen months; two years; three years; four years; and five years. Services to be covered at each visit shall include a history, physical examination, developmental assessment, anticipatory guidance,

and appropriate immunizations and laboratory tests, in keeping with prevailing medical standards.

(c) Minimum benefits may be limited to one visit payable to one provider for all of the services provided at each visit cited in this section.

(d) This section does not apply to disability income, specified disease, medicare supplement, or hospital indemnity policies.

(e) For the purposes of this section, "child health supervision services" means physician-delivered, physician-supervised, or nurse-delivered services as defined by section 457-2 ("registered nurse") which shall include as the minimum benefit coverage for services delivered at intervals and scope stated in this section."

SECTION 2. Act 347, Session Laws of Hawaii 1987, Section 2, is amended by adding a new section to part II of Article 10A of chapter 431 to be appropriately designated and to read as follows:

"§431:10A- Coverage for child health supervision services. (a) All health insurance policies issued in this State, which provide coverage for the children of the insured shall provide coverage for child health supervision services from the moment of birth through age five years. These services shall be exempt from any deductible provisions which may be in force in these policies or contracts.

(b) Child health supervision services shall include twelve visits at approximately the following intervals: birth; two months; four months; six months; nine months; twelve months; fifteen months; eighteen months; two years; three years; four years; and five years. Services to be covered at each visit shall include a history, physical examination, developmental assessment, anticipatory guidance, and appropriate immunizations and laboratory tests, in keeping with prevailing medical standards.

(c) Minimum benefits may be limited to one visit payable to one provider for all of the services provided at each visit cited in this section.

(d) This section does not apply to disability income, specified disease, medicare supplement, or hospital indemnity policies.

(e) For the purposes of this section, "child health supervision services" means physician-delivered, physician-supervised, or nurse-delivered services as defined by section 457-2 ("registered nurse") which shall include as the minimum benefit coverage for services delivered at intervals and scope stated in this section."

SECTION 3. Act 347, Session Laws of Hawaii 1987, Section 2, is amended by adding a new section to Article 1 of chapter 432 to be appropriately designated and to read as follows:

"§432:1- Coverage for child health supervision services. (a) All individual and group hospital and medical service corporation contracts which provide coverage for children of the subscriber shall provide coverage for child health supervision services from the moment of birth through age five years. These services shall be exempt from any deductible provisions which may be in force in these contracts.

(b) Child health supervision services shall include twelve visits at approximately the following intervals: birth; two months; four months; six months; nine months; twelve months; fifteen months; eighteen months; two years; three years; four years; and five years. Services to be covered at each visit shall include a history, physical examination, developmental assessment, anticipatory guidance, and appropriate immunizations and laboratory tests, in keeping with prevailing medical standards.

(c) Minimum benefits may be limited to one visit payable to one provider for all of the services provided at each visit cited in this section.

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(d) This section does not apply to disability income, specified disease, medicare supplement, or hospital indemnity policies.

(e) For the purposes of this section, "child health supervision services" means physician-delivered, physician-supervised, or nurse-delivered services as defined by section 457-2 ("registered nurse") which shall include as the minimum benefit coverage for services delivered at intervals and scope stated in this section."

SECTION 4. New statutory material is underscored.¹

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

(Approved June 7, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 202

S.B. NO. 986

A Bill for an Act Relating to Insurance.

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 MENTAL HEALTH AND ALCOHOL AND DRUG ABUSE TREATMENT INSURANCE BENEFITS

§ -1 Definitions. Whenever used in this chapter, unless the context otherwise requires:

"Alcohol dependence" means any use of alcohol which produces a pattern of pathological use causing impairment in social or occupational functioning or produces physiological dependency evidenced by physical tolerance or withdrawal.

"Alcohol or drug dependence outpatient services" means alcohol or drug dependence nonresidential treatment provided on an ambulatory basis to patients with alcohol or drug dependence problems that includes psychiatric or psychological interventions prescribed and performed by state licensed physicians or psychologists who have been certified pursuant to chapter 321.

"Certified substance abuse staff" means professionals and paraprofessionals with current full certification as substance abuse counselors or program administrators under chapter 321.

"Day treatment services" means treatment services provided by a hospital, mental health outpatient facility, or nonhospital facility to patients who, because of their conditions, require more than periodic hourly service. Day treatment services shall be prescribed by a physician or licensed psychologist and carried out under the supervision of a physician or licensed psychologist. Day treatment services require less than twenty-four hours of care and a minimum of three hours in any one day.

"Detoxification services" means the process whereby a person intoxicated by alcohol or drugs or both or a person who is dependent upon alcohol or drugs or both is assisted through the period of time necessary to eliminate, by metabolic or other means, the intoxicating alcohol or drug dependency factors, as determined

by a licensed physician, while keeping the physiological risk to the person at a minimum.

“Drug dependence” means any pattern of pathological use of drugs causing impairment in social or occupational functioning and producing psychological or physiological dependency or both, evidenced by physical tolerance or withdrawal.

“Hospital” means a facility licensed as a hospital by the department of health and accredited by the Joint Commission on Accreditation of Health Care Organizations.

“In-hospital services” means the provision of medical, nursing, or therapeutic services twenty-four hours a day in a hospital.

“Mental illness” means a syndrome of clinically significant psychological, biological, or behavioral abnormalities that results in personal distress or suffering, impairment of capacity for functioning, or both. For the purposes of this chapter, the terms “mental disorder” and “mental illness” shall be used interchangeably and shall include the definitions identified in the most recent publications of the Diagnostic and Statistical Manual of the American Psychiatric Association or International Classification of Disease. Epilepsy, senility, mental retardation, or other developmental disabilities and addiction to or abuse of intoxicating substances do not in and of themselves constitute a mental disorder.

“Mental health outpatient facility” means a mental health establishment, clinic, institution, center, or community mental health center, that provides for the diagnosis, treatment, care, or rehabilitation of mentally ill persons, that has been accredited by the Joint Commission on Accreditation of Health Care Organizations or the Commission on Accreditation of Rehabilitation Facilities.

“Mental health outpatient services” means mental health nonresidential treatment provided on an ambulatory basis to patients with mental illness that includes psychiatric or psychological interventions prescribed and performed by the physician or licensed psychologist.

“Nonhospital facility” means a facility for the care or treatment of alcohol dependent, drug dependent, or mentally ill persons, which has been accredited by the Joint Commission on Accreditation of Health Care Organizations or the Commission on Accreditation of Rehabilitation Facilities and, if residential, has been licensed as a special treatment facility by the department of health.

“Nonhospital residential services” means the provision of medical, psychological, nursing, counseling, or therapeutic services to patients suffering from alcohol dependence, drug dependence, or mental illness by a nonhospital residential facility, according to individualized treatment plans.

“Partial hospitalization services” means treatment services provided by a hospital or mental health outpatient facility to patients who, because of their conditions, require more than periodic hourly service. Partial hospitalization services shall be prescribed by a physician or licensed psychologist. Partial hospitalization services require less than twenty-four hours of care and a minimum of three hours in any one day.

“Substance abuse services” means the provision of medical, psychological, nursing, counseling, or therapeutic services in response to a treatment plan for alcohol or drug dependence or both which shall include, when appropriate, a combination of aftercare and individual, group and family counseling services provided by certified substance abuse staff.

“Treatment episode” means one admission to an accredited hospital or nonhospital facility, or office of a state-licensed physician or psychologist certified pursuant to chapter 321 for treatment of alcohol or drug dependence or both as stipulated in a prescribed treatment plan and which would generally produce remission in those who complete the treatment. The prescribed treatment plan may include the provision of substance abuse services in more than one location and

may include in-hospital, nonhospital residential, day treatment or alcohol or drug dependence outpatient services or any combination thereof. An admission for only detoxification services shall not constitute a treatment episode.

§ -2 Policy coverage. All individual and group accident and sickness insurance policies issued in this State, individual or group hospital or medical service plan contracts, and nonprofit mutual benefit association and health maintenance organization health plan contracts shall include within their hospital and medical coverage the benefits of alcohol dependence, drug dependence, and mental illness treatment services provided in section -4 except that this section shall not apply to insurance policies that are issued solely for single diseases, or otherwise limited, specialized coverage.

§ -3 Peer review. (a) Covered benefits for alcohol dependence, drug dependence, or mental illness insurance policies, hospital or medical service plan contracts, and health maintenance organization health plan contracts shall be limited to those services certified by the insurance or health care plan carrier's licensed physician or licensed psychologist as medically or psychologically necessary at the least costly appropriate level of care.

(b) All alcohol dependence, drug dependence, or mental illness treatment or services as set forth in this chapter shall be subject to peer review procedures as a condition of payment or reimbursement, to assure that reimbursement is limited to appropriate utilization under criteria incorporated into insurance policies or health or service plan contracts either directly or by reference. Review may involve prior approval, concurrent review of the continuation of treatment, post-treatment review or any combination of these. However, if prior approval is required, provision shall be made to allow for payment of urgent or emergency admissions, subject to subsequent review.

§ -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. Physician or psychologist visits 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. In addition, the covered benefit for outpatient services under this chapter shall not be less than twelve visits per year. The covered benefit under this chapter shall apply to any of the services in subsections (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.

(b) Alcohol and drug dependence benefits.

(1) Detoxification services as a covered benefit under this chapter shall be provided either in a hospital or in a nonhospital facility which 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, nonhospital 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 licensed physician or psychologist certified pursuant to chapter 321 shall determine that the person suffers from alcohol or drug dependence or both. The substance abuse services covered under this paragraph shall include those services which 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, 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 licensed physician or psychologist certified pursuant to chapter 321 and must be reasonably expected to produce remission of the patient's condition. Services covered under this subparagraph shall be included as part of the covered outpatient services as specified in subsection (a).
- (c) 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 licensed physician or psychologist and must be reasonably expected to improve the patient's condition.
 - (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).
 - (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).

§ -5 Nondiscrimination in deductibles, copayment plans, and other limitations on payment. (a) Deductible or copayment plans may be applied to benefits paid to or on behalf of patients during the course of treatment as described in section -4, but in any case the proportion of deductibles or copayments shall be not greater than those applied to comparable physical illnesses generally requiring a comparable level of care in each policy.

(b) Notwithstanding subsection (a), health maintenance organizations may establish reasonable provisions for enrollee cost-sharing so long as the amount the enrollee is required to pay does not exceed the amount of copayment and deductible customarily required by insurance policies which are subject to the provisions of

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this chapter for this type and level of service. Nothing in this chapter prevents health maintenance organizations from establishing durational limits which are actuarially equivalent to the benefits required by this chapter. Health maintenance organizations may limit the receipt of covered services by enrollees to services provided by or upon referral by providers associated with the health maintenance organization.

§ -6 Rules. The insurance commissioner, after consultation with all interested parties including the director of health, the board of medical examiners, the board of psychology, and representatives of insurance carriers, nonprofit mutual benefit associations, 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 -5, and shall include an appeals process.

§ -7 Preservation of certain benefits. Nothing in this chapter shall serve to prevent the offering or acceptance of benefits required by this chapter."

SECTION 2. Evaluation. The department of health shall consult with the insurance commissioner and with all interested parties, to include the board of medical examiners, the board of psychology, and representatives of insurance carriers, nonprofit mutual benefit associations, health maintenance organizations, public and private providers, consumers, employers and labor organizations, and state agencies which implement policies under the authority of this Act, to gather information to report to the 1991 and 1994 sessions of the legislature. The purpose of the information shall be to:

- (1) Describe the extent to which the options under this Act have been exercised;
- (2) Identify savings and expenses attributable to the exercise of the options;
- (3) Identify problems which interfere with or arise from exercise of the options, and evaluate alternative solutions to such problems; and
- (4) Recommend and describe desirable characteristics of other approaches to cost containment which may be appropriate for legislative action.

SECTION 3. This Act shall take effect on July 1, 1989; provided that insurance or health or service plan contracts shall be amended to reflect the provisions required under this Act at the first anniversary date following the effective date, but no later than July 1, 1990; provided further that section -6 shall take effect upon the approval of this Act; and provided further that this Act shall be repealed on July 1, 1994.

(Approved June 7, 1988.)

ACT 203

S.B. NO. 3206

A Bill for an Act Relating to Maternal and Child Health Services.

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

SECTION 1. Chapter 321, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . MATERNAL AND CHILD HEALTH PROGRAM

§321- Purpose. The purpose of this part is to enable the department of health to assure the availability of programs and services which promote the health of women of childbearing age, mothers, families, infants, children, youths, and adolescents. These programs shall further the State's goals of providing for the health and well-being of women and mothers and help to insure that healthy babies become healthy adults.

§321- Administration of programs. The department of health may administer programs to reduce infant and maternal mortality and morbidity, and otherwise promote the health of women of childbearing age, mothers, families, infants, children, youths, and adolescents. The types of services to be provided may include but need not be limited to perinatal care, prenatal education including individual risk reduction, maternal care, baby and child care, adolescent health care, and family planning.

§321- Definitions. For the purposes of this part:

"Target population" means women of childbearing age, mothers, families, infants, children, youths, and adolescents.

"Preventive health care services" means services which promote, enhance, or maintain optimal health and well-being.

§321- Powers of the department. The department of health may:

- (1) Make available to the target population quality health care services, with emphasis on preventive health services;
- (2) Develop, extend, and improve the services; and
- (3) Cooperate with the federal government, through its appropriate agency or instrumentality, in identifying needs, developing, extending, and improving the services, and receiving and expending all funds made available to the department by the federal government, the State, or its political subdivisions, or from any other source, including private donations, for the purposes of this part.

§321- Agreements. In carrying out the purposes of this part the director of health may:

- (1) Enter into agreements with the United States and with other state departments, agencies, and political subdivisions, and enter into assistance agreements for services with profit organizations incorporated under the laws of the State or nonprofit organizations determined to be exempt from the federal income tax by the Internal Revenue Service, and allocate and expend any funds appropriated for the purposes of such agreements and do all things necessary to accomplish the purposes and provisions of this part; and

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- (2) Establish standards and review procedures to assure that recipients of state funding provide the services and facilities necessary to accomplish the purposes for which the funds are provided.

§321- Rules. The director shall adopt rules necessary to carry out the purposes of this part, including the establishment of criteria to determine eligibility to participate in the services provided under this part."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 7, 1988.)

ACT 204

H.B. NO. 2195

A Bill for an Act Relating to Covenants in Leases.

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

SECTION 1. It is the policy of the State to encourage appropriate deinstitutionalization of persons who are developmentally disabled, handicapped, mentally ill, and elderly. However, the development of community-based residential settings has been restricted from many areas within the State because of restrictive covenants on leasehold land which prohibit the establishment of such facilities. This has in part, resulted in the movement and concentration of these facilities in communities which are not on leasehold land containing such restrictive covenants. Consequently, a small number of communities contain a disproportionately large number of group living facilities and many communities contain few or none.

Several states, including Arizona, Indiana, Iowa, Missouri, North Carolina, Rhode Island, Texas, West Virginia, and Wisconsin have enacted legislation declaring private restrictive covenants, which impede the development of these facilities, as invalid and unenforceable on public policy grounds. It is essential that the State initiate such legislation to ensure that group living facilities are dispersed fairly in every community.

The purpose of this Act is to declare that any restrictive covenant which prevents or restricts the establishment of facilities licensed by the State as an adult residential care home, intermediate care facility/mental retardation-community, or special treatment facility shall be void and unenforceable as to such community residences.

SECTION 2. Chapter 518, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§518- Invalidity of certain restrictive covenants. It is the public policy of the State of Hawaii 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/mental retardation-community as defined under section 46-4(d); or special treatment facility as defined under section 334-1 shall be void and unenforceable as to such community residences."

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon approval.

(Approved June 7, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 205

H.B. NO. 3190

A Bill for an Act Relating to Health.

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

SECTION 1. Section 321-15.8, Hawaii Revised Statutes, is repealed.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER
DISPERSAL REVIEW COUNCIL**

§ -1 Purpose. The purpose of this chapter is to establish a dispersal review council to ensure that group living facilities for persons who are developmentally disabled, elderly, handicapped, mentally ill, or totally disabled are dispersed throughout the State. The provisions of this chapter with respect to group living facilities as defined in section -2, shall supersede any other law to the contrary.

§ -2 Definitions. As used in this chapter, unless the context requires otherwise:

“Council” means the dispersal review council established in section -3;

“Developmentally disabled person” means a person with developmental disabilities as defined in section 333E-2;

“Elderly person” means a person as defined in section 359-52;

“Handicapped person” means an individual having a physical impairment as defined in section 515-2;

“Group living facility” means a facility licensed by the State or its political subdivisions, including adult residential care homes as defined in section 321-15.6, intermediate care facilities/mental retardation-community (ICF/MR-C) as defined in section 46-4(d), special treatment facilities as defined in section 334-1, and boardinghouses, lodging or tenement houses, group homes, group residences, or group living arrangements as defined in section 445-90;

“Mentally ill person” means a mentally ill person as defined in section 334-1;

“Person suffering from substance abuse” means a person suffering from substance abuse as defined in section 334-1;

“Person totally disabled” means a person totally disabled as defined in section 235-1;

“Saturation rating” means a rating which reflects the extent to which a geographic area is occupied with group living facilities based upon criteria set by the dispersal review council;

“State agency” means the state health planning and development agency established in section 323D-11;

“Subarea” means one of the geographic subareas designated by the state agency pursuant to section 323D-21.

§ -3 Dispersal review council. (a) There is established within the department of health for administrative purposes, the dispersal review council to be composed of fifteen members to be appointed by the governor for staggered terms without advice and consent of the Senate. The members shall include one person from each of the seven subareas, four representatives who have a special interest in persons who are developmentally disabled, elderly, handicapped, mentally ill, suffering from substance abuse, or totally disabled, and four persons from at least the two geographic areas which have the highest number of group living facilities. In addition, the director of health, the director of human services, the director of the department of land utilization of the city and county of Honolulu, and the directors of planning of the counties of Maui, Kauai, and Hawaii, shall be ex-officio non-voting members.

(b) The members shall serve without compensation but shall be reimbursed for necessary and reasonable expenses incurred in the performance of their duties, including travel expenses.

(c) The council shall elect a chairperson from among its voting members.

(d) A simple majority of all voting members shall constitute a quorum to do business and concurrence of a majority of the quorum shall be necessary to validate any action of the council.

(e) No member of the council shall vote on any matter with which the member has or has had within the twelve months preceding the vote any direct or indirect financial interest or other conflict of interest.

§ -4 Powers, duties, and functions of the council. The council shall have and perform the following functions:

- (1) Maintain an updated registry of group living facilities with information to include, at a minimum, the number of group living facilities in the State, the location of each group living facility in each community, and the size and type of such group living facilities;
- (2) Establish criteria to determine the geographic areas of the State which are appropriate to the purposes of this chapter, the saturation rating of each geographic area, and criteria to determine when a geographic area has reached its saturation point or is oversaturated;
- (3) Determine a saturation rating for each geographic area of the State based upon appropriate criteria;
- (4) Issue a saturation rating for all applications for new group living facilities;
- (5) Establish memoranda of agreement with licensing agencies to utilize the rating system when a group living facility applies for licensure;
- (6) Review applications for licensure of new group living facilities which would be located in any area designated as having reached its saturation point or oversaturated;
- (7) Establish criteria to determine the density of the geographic areas with regard to proximity of group living facilities to each other;
- (8) Explore means to resolve conflicts between group living facility residents and the community; and
- (9) Explore and develop incentives for new and existing group living facilities to locate or relocate outside of saturated or oversaturated areas.

§ -5 Use of rating system. Upon the establishment of a saturation rating system, no applicant seeking licensure as a group living facility shall be granted licensure unless a satisfactory saturation rating has been issued from the dispersal review council, except as in section -9.

§ -6 Interagency coordination. The council may require any agency of the State or its political subdivisions which issues a license to a group living facility to provide information on the number, location, and occupancy of group living facilities under their jurisdiction in order to carry out the duties and responsibilities of this chapter.

§ -7 Rules. The council shall adopt rules pursuant to chapter 91 necessary and appropriate to carry out the purposes of this chapter. The rules shall include, but not be limited to:

- (1) Procedures for application review by the dispersal review council and the information required of applicants;
- (2) Establishment of geographic boundaries for the purpose of issuing saturation ratings;
- (3) Criteria to determine the saturation rating of each geographic area as well as criteria as to whether that geographic area is oversaturated with group living facilities;
- (4) Criteria to determine the density within a geographic area with regards to the proximity of group living facilities to each other;
- (5) Procedures for the collection of data on the number, location, and occupancy of group living facilities;
- (6) Criteria under which an exemption or waiver of the requirements of this chapter may be granted; and
- (7) Establishment of a fair and timely grievance procedure to provide administrative due process and recourse for a party aggrieved by any action or failure to act under this chapter.

§ -8 Council administration. The state agency shall provide staff services to the council in order that the council may carry out the duties and functions of this chapter. For administrative purposes, the council shall be independent of the state agency.

§ -9 Unlicensed facilities. Unlicensed facilities currently operating as though they were group living facilities as of the effective date of this act may be granted a license by an agency responsible for licensing of group living facilities without regard to saturation rating if they file a letter of application for licensure with the licensing agency before July 1, 1989, and are in compliance with licensure requirements.”

SECTION 3. The areas of Waipahu and Kalihi-Palama shall be given first priority by the council in the development and implementation of saturation ratings.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$72,544, or so much thereof as may be necessary for fiscal year 1988-1989, to carry out the purposes of this Act, including the hiring of necessary staff. The sum appropriated shall be expended by the department of health.

SECTION 5. Statutory material to be repealed is bracketed.¹

SECTION 6. This Act shall take effect upon its approval; provided that:

- (1) Section 4 shall take effect on July 1, 1988;

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- (2) The Council shall concentrate on implementation of this Act on Oahu until July 1, 1990.

(Approved June 7, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 206

S.B. NO. 2336

A Bill for an Act Relating to Handicapped Persons.

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

SECTION 1. Chapter 347, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§347- Suits by individuals; jurisdiction; venue. Any person injured by a violation of section 347-13 may bring a civil action to recover three times the person’s actual damages or \$1,000, whichever sum is greater, for each violation. Any person bringing such an action shall also be entitled to recover the person’s costs together with reasonable attorneys’ fees. An action under this section shall be brought in the circuit court of the district in which the violation is alleged to have occurred.”

SECTION 2. Section 347-13, Hawaii Revised Statutes, is amended to read as follows:

“§347-13 Blind, partially blind, physically handicapped; public places; public conveyances. (a) The blind, visually handicapped, and otherwise physically disabled are entitled to full and equal accommodations, advantages, facilities, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motor buses, street cars, boats, or any other public conveyances or modes of transportation, hotels, lodging places, places of public accommodation, amusement, or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons.

(b) Every blind or visually handicapped person shall have the right to be accompanied by a guide dog, especially trained for the purpose, in any of the places listed in subsection (a) without being required to pay an extra charge for the guide dog; provided that the blind or visually handicapped person shall be liable for any damage done to the premises or facilities by such dog. No such dog shall be dangerous merely because it is unmuzzled.

(c) Every physically handicapped person shall have the right to use a life jacket or other flotation device in a public swimming pool; provided that:

- (1) The handicapped person suffers from a physical disability or condition which requires the use of a life jacket or other flotation device; and
- (2) The handicapped person obtains a statement signed by a licensed physician attesting to the handicapped person’s need to use a life jacket or other flotation device.

(d) The director of human services shall adopt rules pursuant to chapter 91 necessary for the purposes of this [subsection.] section.”

SECTION 3. Section 347-14, Hawaii Revised Statutes, is amended to read as follows:

"§347-14 Penalty. Any person, business, or agency who violates section 347-13 and any common or public carrier which, and any officer or employee of any common carrier who violates, or causes such carrier to violate, section 347-13 shall be fined not more than \$1,000 [or, if a natural person, imprisoned not more than one year, or both]."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

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

(Approved June 7, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 207

S.B. NO. 2633

A Bill for an Act Relating to the Hearing-Impaired.

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

SECTION 1. **Findings and purpose.** The legislature believes that everyone has a natural and basic need to communicate. For many deaf and hearing-impaired people, the fulfillment of this need depends on extra communication means such as a telecommunication device for the deaf. These extra tools of communication have not always been readily available nor uniformly accessible, yet without them, hearing-impaired people are deprived of the right to fully participate in society. The legislature finds that relay services for the deaf make the phone system usable by hearing-impaired persons who have a telecommunications device for the deaf.

The purpose of this Act is to ensure the availability of relay services for the deaf and hearing-impaired.

SECTION 2. Chapter 269, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§269- Relay services for the deaf and hearing-impaired. (a) The public utilities commission shall implement a program to achieve relay services for the deaf and hearing-impaired not later than July 1, 1989.

(b) "Relay services for the deaf and hearing-impaired" means a twenty-four-hour operator-assisted telephone relay service staffed by persons who are able to receive and transmit phone calls between deaf and hearing-impaired and hearing persons using a telecommunication device for the deaf in conjunction with a telephone.

(c) The commission shall require every telephone public utility providing local telephone service to file a schedule of rates and charges providing for relay services for the deaf and hearing-impaired.

(d) Nothing in this section shall preclude the commission from changing any rate established pursuant to subsection (a) either specifically or pursuant to any general restructuring of all telephone rates, charges, and classifications."

SECTION 3. Whenever a public utility providing local exchange telecommunications services applies for approval of rates, charges, or fees in tariffs for

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specialized services for the deaf or hearing-impaired, the commission shall expedite to the greatest extent possible any necessary rate making procedures. Further, the commission shall be authorized to approve interim surcharges imposed on all subscriber lines, in order to permit the recovery of those actual costs incurred from the time of commencement of the specialized services for the deaf and hearing-impaired to the time of the next general rate increase.

SECTION 4. New statutory material is underscored.¹

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

(Approved June 7, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 208

S.B. NO. 1725

A Bill for an Act Relating to Public Assistance.

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

SECTION 1. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§346- Eligibility for chore services. (a) An applicant for chore services shall be eligible when the applicant meets program requirements for chore services and income eligibility standards as established by the department of human services. Income eligibility standards shall include individuals who have been found eligible for medical assistance under the department’s Medicaid program.

(b) For the purposes of this section, “chore services” means essential housecleaning and related activities such as marketing, cooking, and cleaning.”

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$272,340 or so much thereof as may be necessary for fiscal year 1988-1989, for chore services. The sum appropriated shall be expended by the department of human services.

SECTION 3. Act 192, Session Laws of Hawaii 1983, as amended by Act 207, Session Laws of Hawaii 1985, and Act 134, Session Laws of Hawaii 1987, is amended to read as follows:

“SECTION 1. Purpose. The legislature finds and declares that the provision of comprehensive home services for the chronically ill and disabled residents of the State of Hawaii is a priority concern. The development of more economical methods of caring for this growing population group as an alternative to the construction of additional institutional facilities should be a primary focus of the State’s action.

Comprehensive services rendered to clients in their homes reduce the possibility of prolonged institutionalization or the inappropriate utilization of scarce institutional beds, as well as the concomitant high costs and other associated adverse social and medical implications of institutionalization.

The legislature intends that there be a public commitment to the appropriate provision and expansion of home services which will provide a single point of entry

and access to a comprehensive and coordinated program of care in the home for Hawaii's growing aged and chronically ill population.

SECTION 2. Definitions. For the purpose of this Act:

"Certified home health agency" means an agency licensed by the State to provide health services, such as skilled nursing, home health [aides,] services, and physical therapy in the client's home.

"Comprehensive assessment" means the evaluation of the client's medical, social, and environmental needs.

"Comprehensive home services" means the provision of a broad range of services which will ensure the client's safety and well-being at home over an indefinite period of time.

"Non-Medicaid recipient" means an individual whose income is at least two hundred per cent of and not more than four hundred per cent of the current medical assistance community income limit; and whose personal reserve is at least one hundred per cent of and not more than four hundred per cent of the current medical assistance limit for personal reserve retention.

"Plan of care" means a written plan, including goals, objectives, and methodology, designed to meet the service requirements of the client, caregiver, or both, as approved by the physician.

"Safety and well-being" means an assessment of [and determination that] the client's home environment and the determination that it is safe and that the care requirements of the client have been determined and can be provided for in the home setting.

"Waiver" means an intentional relinquishment of certain rights or obligations.

SECTION 3. Establishment of a community [long term] long-term care/nursing home without walls program. (a) A community long-term care/nursing home without walls program shall be established in the department of [social services and housing] human services to provide comprehensive home services for acute or chronically ill and disabled clients who are certified as requiring acute, skilled nursing, or intermediate level care.

(b) The provision of services shall be statewide.

[c) The duration of the program shall be from July 1, 1983, through June 30, 1989.

[d)] (c) A ceiling shall be placed on the nursing home without walls program expenditures, limiting total expenditures to not more than seventy-five per cent of the Medicaid cost to maintain the nursing home without walls program caseload at their appropriate level of institutional care. The [cost of] Medicaid [for institutional care] cost which shall be the basis for the expenditure ceiling shall be determined by the department of [social services and housing.] human services.

[e)] (d) A ceiling shall be placed on individual client care expenditures so that the annual cost of client care through the nursing home without walls program does not exceed seventy-five per cent of the annual Medicaid cost to provide the appropriate level of care for the client [in either a skilled nursing or intermediate care facility]. If there is more than one client in a family, the expenditure ceilings of each client shall be added together and the costs of their care combined and evaluated against the sum.

[f)] (e) If the client from the nursing home without walls program does not utilize the entire funds available for the client's care, "paper credits" shall be accrued on the client's behalf to be utilized during a period of higher service requirements.

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SECTION 4. Determination of client eligibility for participation in the program. (a) Clients shall meet the following eligibility criteria:

(1) They shall be certified by the department of [social services and housing] human services physicians to be in need of acute, skilled nursing, or intermediate level [institutional] care;

(2) They shall be determined by the department of [social services and housing] human services to be eligible for Medicaid assistance; and

(3) They shall be deemed by their personal physician as able to be cared for at home with the provision of appropriate services in the home.

'Non-Medicaid recipients will be eligible to receive the same array of comprehensive home services as nursing home without walls clients who are eligible for Medicaid.'

(b) Clients approved for the program shall receive a:

(1) Comprehensive assessment of their medical, social, and environmental needs;

(2) Written plan of care listing the types, frequency, and duration of all services which are necessary to maintain the client at home;

(3) Budget based on the services defined in the plan of care; and

(4) Periodic review of their status to assure continued medical and financial eligibility for service.

SECTION 5. Provision of services. (a) Services which shall assure the safety and well-being of the client shall be provided in the client's home or in the home of a responsible relative or other adult.

(b) The program shall provide the services in the most economic manner feasible which is compatible with preserving quality of care through:

(1) Informal care providers, such as family members, friends, or neighbors who regularly provide specific services without remuneration and not as a part of any organized volunteer activity;

(2) Contracts with agency providers, such as certified home health agencies and public or private health and social service agencies;

(3) Contracts with individual providers, such as physicians, nurses, and therapists who privately enter into a contract to provide services for the program; or

(4) Program personnel, such as social workers and nurses who are hired by the program to provide specific services.

SECTION 6. Cost-sharing by clients not eligible for Medicaid assistance. Clients ineligible for Medicaid shall share in the cost of services according to a sliding fee scale established by the department in rules adopted under chapter 91. The sliding fee scale shall be based on income, assets, and family size. Persons having higher levels of income or assets in relation to family size shall be required to pay a larger share of the costs.

SECTION 7. Annual report. The director of [social] human services shall report to the legislature at least twenty days prior to the convening of each regular session during the period of the program. The annual report shall include a comprehensive report on the status of the program and recommendations for amendments to the law and to the rules of the department pertaining to the program.

SECTION [7.] 8. Rules. The department of [social services and housing] human services shall adopt rules in accordance with chapter 91, Hawaii Revised Statutes, for the purpose of this Act.

SECTION [8.] 9. Personnel exempt. Personnel employed for the program shall not be subject to [the provisions of] chapters 76 and 77, Hawaii Revised Statutes. The terms of service for these personnel shall begin on July 1, 1983, or as soon thereafter as deemed appropriate by the department of [social services and housing, and shall not continue beyond June 30, 1989.] human services.

SECTION [9.] 10. This Act shall take effect on July 1, 1983[, and shall be repealed as of June 30, 1989]."

SECTION 4. Appropriation. There is appropriated out of the general revenues of the State of Hawaii the sum of \$599,360, or so much thereof as may be necessary for fiscal year 1988-1989, to provide program services to non-Medicaid program recipients, including the hiring of necessary staff. The sum appropriated shall be expended by the department of human services.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 6. This Act shall take effect on July 1, 1988.

(Approved June 7, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 209

S.B. NO. 1450

A Bill for an Act Relating to Personal Care Services.

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

SECTION 1. Purpose. The purpose of this Act is to amend temporarily the law relating to provision of services to include recipients who are not eligible for the medical assistance program and to allow for more recipient control in the direction and training of personal care service providers.

Personal care services are currently available only to elderly and disabled persons eligible for medical assistance which is jointly funded by federal and state moneys. There is a gap group which is not eligible for medical assistance and which requires personal care services in order to function independently and remain in the community and not in the hospital or nursing facilities. It currently costs about two to three times more to maintain a person in an intermediate care facility in Hawaii than in the community. If only two per cent of future medical assistance recipients could be diverted from placement in nursing homes, the annual cost savings could fund a personal care services program for about four hundred individuals, on a sliding scale fee basis. Extension of a state funded component for personal care services to individuals in the gap group would divert a number of individuals from future institutionalization at greater public expense.

The present personal care services program also prevents full participation by a capable recipient in the training, direction, and management of the individual's personal care services in the least restrictive environment. Personal care services need to be more responsive to the recipient needs and be more consumer controlled and directed. Not all elderly and disabled persons receiving personal care services require intensive case management and medical supervision in the provision of

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personal care services. Differential levels of case management can be incorporated into the program. This would enable those elderly and disabled persons with the functional and intellectual capacity to manage and train their personal care service providers to do so.

SECTION 2. Section 346-64, Hawaii Revised Statutes, is amended to read as follows:

“§346-64 Personal care; payment for services. (a) The department shall provide, subject to legislative appropriations, personal care services to medical assistance recipients[:] and non-medicaid recipients:

- (1) Whose physical or mental disabilities are of a degree that would require placement in an intermediate care facility or skilled nursing facility if the personal care services were not provided; and
- (2) Who have no responsible relative or friend willing to volunteer assistance in the bathing, dressing, and feeding of the recipient, the performance of toilet and personal hygiene functions by the recipient, and other household tasks.

[Personal care services provided under this section shall be funded under the medical assistance program.] The department shall provide personal care services in compliance with state and federal laws and rules and shall request federal financial participation for services provided to medicaid-eligible recipients.

(b) As used in this section:

“Non-medicaid recipient” means an individual whose income is at least two hundred per cent of and not more than four hundred per cent of the current medical assistance community income limit; and whose personal reserve is at least one hundred per cent of and not more than four hundred per cent of the current medical assistance limit for personal reserve retention.

“Personal care services” mean services to assist in bathing, dressing, and feeding; performance of toilet and personal hygiene functions; assistance with medications which are ordinarily self-administered; assistance with mobility and transfer activities; and other household tasks which are related to a medical need.

(c) The payment for personal care services for a recipient during a month shall not exceed sixty-five per cent of the average monthly medical assistance payment for a recipient in an intermediate care facility[] or skilled nursing facility. A recipient who is not eligible for medical assistance may receive personal care services and shall make payment for these services based on a sliding fee system based on income, assets, and family size as established by the department. The department or its authorized agent shall make a comprehensive assessment of and provide a written plan of care to a recipient receiving personal care services. The plan of care shall be, to the extent possible, developed to reflect the desires of the recipient, or the recipient’s legal representative, and may provide for differential levels of case management.

(d) The department shall compute the average monthly medical assistance payment for a recipient in an intermediate care facility or skilled nursing facility by rule in accordance with chapter 91.

(e) Nothing in this section shall be construed as limiting the department from providing other services in programs under its jurisdiction to recipients under this section who may be eligible for such services.

(f) The department may adopt rules in accordance with chapter 91 for the purpose of this section.”

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$450,000, or so much thereof as may be necessary for fiscal

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year 1988-1989, to carry out the purposes of this Act. The sum appropriated shall be expended by the department of human services within funding limitations and considering individual circumstances and need; provided that funds are used for recipients who are not eligible for medical assistance and shall be expended to provide services to those who are not currently receiving state funded personal care services. These funds may be distributed to reflect departmental priorities after the individual's personal circumstances and needs have been considered.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 1988; provided that on June 30, 1991, section 2 shall be repealed, and section 346-64, 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 7, 1988.)

ACT 210

H.B. NO. 2604

A Bill for an Act Making an Appropriation to Assist the Mentally Ill.

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 \$279,000, or so much thereof as may be necessary for fiscal year 1988-1989, to fund the community based programs for the chronically mentally ill, including programs for employment and psychosocial and vocational rehabilitation.

SECTION 2. 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, 1988.

(Approved June 7, 1988.)

ACT 211

H.B. NO. 2046

A Bill for an Act Relating to Health.

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

SECTION 1. Purpose. The Legislature finds that AIDS is a health crisis which threatens the well-being of our society. In the United States the Center for Disease Control has reported over 50,000 cases of AIDS. Because of the generally long symptom-free period between actual infection and the advent of symptoms, the Human Immunodeficiency Virus has spread silently and extensively in some sectors of our population.

The United States Public Health Service estimates that up to 1.5 million Americans are infected with the virus, that by 1991 there will have been a cumulative total of more than 270,000 cases of AIDS in the United States, with more than

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74,000 occurring in 1991 alone. There are now 400 new cases of AIDS reported every month.

In Hawaii we have an estimated 7,000 individuals who may be HIV-positive, and between 500 to 1,000 may already suffer from Aids Related Complex (ARC). The number of frank AIDS cases reported stands at 182, and we have already recorded our first pediatric AIDS case. There is some evidence that AIDS has already entered the teenage population.

The present estimate of the cost of caring for and treating¹ individual with AIDS and/or ARC from initial diagnosis to death ranges from \$50,000 to \$150,000. By 1991 more bed-days will be required for AIDS patients than for victims of motor vehicle accidents or lung cancer patients, two of the nation's highest causes of hospital utilization.

AIDS patients require more direct nursing care and emotional support, up to two times as much as other patients. They also require more frequent use of isolation clothing, special waste disposal and housekeeping precautions, use of private rooms, and special staff training.

AIDS is a challenge to Hawaii's health system, and Hawaii's education system. It is a challenge to the workplace, to law enforcement, to private service organizations, and to the way in which we provide housing and community based services. Efforts to deal with AIDS furnish the opportunity to incorporate professionally determined quality assurance standards for community-based services such as housing in order to safeguard both residents and the community.

The Legislature finds that significant resources must be invested for education and information to prevent the spread of the disease, to create the infrastructure for community based health care and the delivery of needed services, and to maximize effective administration and coordination of programs and policies.

Hawaii needs AIDS education programs which are delivered in the context of related health and social concerns, and which contain the targeting and counseling required to modify behavior. Hawaii's health care system needs to develop an infrastructure of community based services to cope with AIDS in the most cost effective and humane settings. Hawaii's administration of AIDS programs needs to maximize coordination and cooperation. And Hawaii's health policies relating to AIDS need to reflect the best legal, practical, and technological trends in the evolution towards a community consensus.

The purpose of this bill is to fund programs not now in place but which are of a high priority for fighting AIDS; to relieve the pressure on private non-profit organizations, and enlist a broad range of agencies in the fight against AIDS; and to deal with AIDS in a context of other pressing health issues, such as drug abuse, health education, case management, and housing.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$800,000, or so much thereof as may be necessary for fiscal year 1988-1989, for the purpose of AIDS education and information (HTH 121). Education and information may encompass district health educators to work with the department of education, family life education for pre-teens with parental involvement, peer group counseling for teens, programs for peer education and workshops for college level students, health care infection controls, educational and informational efforts in the workplace, educational efforts to high risk groups, and special educational efforts in the prison system. The sum appropriated shall be expended by the Department of Health.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$490,000, or so much thereof as may be necessary for fiscal year 1988-89, to be expended by the Department of Health, for the purpose of outpatient care, housing, case management, and drug treatment:

- (1) AIDS/ARC housing and basic living assistance program.

For a grant-in-aid to the Hawaii ecumenical housing corporation (hehc) for the development, implementation and staffing of the ho'omana'olana comprehensive residence program for persons with AIDS or ARC, for the purpose of providing shelter to those rendered homeless due to these illnesses. In addition to shelter, this program will provide counseling, facilitate access to supportive health and social services. Furthermore, in conjunction with the residents' own resources, hehc will provide assistance with basic living needs. The director of the program shall prepare a report to the department of health on AIDS/ARC housing needs, their availability, and costs and strategies for providing more statewide housing.

\$140,000

- (2) AIDS/ARC case management & personal care training and services (HTH 121).

To work with the AIDS community care team and persons with AIDS to provide case management services for people with AIDS or ARC, to include case management training, coordination of services, and personal care training. Case managers funded by this project should work closely with the many private physician and community agencies including the life foundation, hospice programs in Hawaii, Hawaii centers for independent living, acute care medical facilities such as St. Francis medical center and Queens medical center, alcohol and drug abuse treatment programs such as dash, the hemophilia foundation of Hawaii, people with AIDS and others involved in providing these services to persons with AIDS or ARC. The case managers shall participate in a common training program and meet regularly in accordance with a program designed to maximize information and coordination of services.

The department of health shall provide a written report 20 days prior to the 1989 legislative session on the establishment of the program and on the model used for case management training and implementation.

\$250,000

- (3) Drug treatment program (HTH 121)

As a grant-in-aid to drug addiction services of Hawaii, inc. (dash) to increase the number of indigent IV-drug users on methadone maintenance and detoxification and to provide intense case management and counseling. Case managers for drug abusers with AIDS or ARC should also participate in the doh's case management program.

\$100,000

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$160,000, or so much thereof as may be necessary for fiscal year 1988-89, for administration of the AIDS program (HTH 121) and laboratory AIDS testing (HTH 901). The sum appropriated shall be expended by the Depart-

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ment of Health for the purposes of this Act, and may be used for coordination and monitoring of activities and funding provided in this Act.

SECTION 5. The Department of Health, at its discretion and in order to have maximum flexibility to carry out the purposes of this Act, is further authorized to expend the moneys appropriated by this Act in the following manner:

- (1) Up to forty percent of the moneys appropriated for AIDS education and information pursuant to Section 2 may be transferred and utilized for any of the purposes provided in Sections 3 or 4 of this Act, or any combination thereof;
- (2) Up to forty percent of the moneys appropriated for administration of the AIDS program and laboratory testing pursuant to Section 4 may be transferred and utilized for any of the purposes provided in Sections 2 or 3 of this Act, or any combination thereof.

SECTION 6. The Department shall utilize federal funds to the fullest as funds become available and shall substitute federal funds for state general funds wherever applicable.

SECTION 7. In expending funds appropriated by this Act through grants-in-aid or purchase of service contracts with private agencies, the Department shall endeavor to the extent practicable to insure that funding to private agencies is equitable with respect to responsibilities of staff, salaries, and operational costs between and among agencies, and that funding maximizes utilization of central support staff and office space.

SECTION 8. The Department shall expend funds recognizing the different populations and their distribution, needs, and preferences, and hence may utilize more than one agency for case management and personal care services with an appropriate dispersal of funds for case management and direct services.

SECTION 9. The Department of Health shall report to the Legislature on the funds expended through this Act. The Department shall outline its expenditures under this Act, the purpose of the expenditures, and discuss the programmatic efforts funded in this Act. It shall also discuss federal funding for Hawaii's AIDS program and describe how the funding provided in this bill relates to the federal funds received. The report shall also define areas of need and discuss how various funding sources may be best utilized to prevent and treat AIDS in Hawaii. The report shall be submitted twenty days prior to the convening of the 1989 Legislature.

SECTION 10. This Act shall take effect upon its approval.

(Approved June 7, 1988.)

Note

1. So in original.

ACT 212

H.B. NO. 2330.

A Bill for an Act Relating to Nursing.

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

SECTION 1. There is growing evidence that the supply of licensed nurses working in the State does not meet the present demand. As of February 1987 there

were over five hundred vacancies in health care agencies throughout the State, and it had been estimated that the number of vacancies would increase to eight hundred by 1988 and nine hundred in 1989.

Serious implications arise due to the shortage of nurses in the State. Insufficient staffing together with increased patient acuity and occupancy has a detrimental effect on the quality of nursing care. Long working hours for existing nurses affect their stamina and performance. One major hospital in Hawaii has had to close a substantial number of its surgical beds due in part to a lack of nursing staff. It is expected that other hospitals will face similar closures if the nursing shortage is not corrected. To compensate for the shortage, hospitals have found it necessary to ask nurses to work overtime and to recruit short-term contract nurses from the mainland. Such actions translate to increased medical care costs but with a detrimental effect in the quality of care for the people of Hawaii. All indications are that this shortage will continue in virtually all medical care areas where nurses are needed.

Hawaii's rapidly growing population requires that something be done to alleviate Hawaii's growing nursing shortage. By 1990, the department of business and economic development projects that the resident population in our State will increase to 1,138,400 with another eleven per cent increase to 1,267,800 by the year 2000. The elderly population is also showing a significant growth. This group is known to utilize the health care system more than any other age group. The United States Bureau of Census predicts that the number of frail and elderly eighty-five years and older will grow from 2.7 million in 1985 to 4.9 million in the year 2000. By then, fifty per cent of direct care in-hospital facilities will be devoted to caring for the elderly. In Hawaii, a projected total of 168,900 individuals will be sixty years and older by the year 1990. In fact, the people of the State are known to have the longest life expectancy in the country.

Recognizing this pressing nursing shortage, the legislature finds that there is a need for a program which would immediately increase the number of licensed nurses in the State. There are many graduate nurses in Hawaii working as licensed practical nurses, nurses aids, ward clerks, doctor's secretaries, and other similar nursing related work, who have not yet passed the written examination required for the commission on graduates of foreign nursing schools, or the written examination required by the state board of nursing, or both. The time demands of their occupation and other socioeconomic pressures prevent them from otherwise being able to prepare adequately for the licensing examinations. With some concerted assistance from the private sector and the State, these graduate nurses may be able to pass the written examinations and become licensed nurses. Certain hospitals in the State have indicated a willingness to assist and accommodate their qualified employees by maintaining their employment status and salary while participating in a program operated by the State to improve test taking skills and to prepare them for the nursing license examinations. These hospitals, along with state government-operated hospitals, could serve as valuable resources in the planning and development of a nursing license preparation program by the State.

The legislature therefore finds that it is desirable to establish and to test the effectiveness of a program designed to improve test taking skills of graduate nurses to enable them successfully to pass the required written examinations. Review and training courses are to be held for four to six months and shall commence four to six months prior to the dates that the nursing license examinations are to be offered.

The purpose of this Act is to provide for such a pilot program to be operated by the department of health, which shall include the provision of classroom facilities, books and review material, instructors, and such other equipment and personnel

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necessary and accessory for the program. The effect of this program will be to offer an expeditious solution to Hawaii's nursing shortage.

SECTION 2. Nursing license examination preparation program established. There is established within the department of health a pilot program to be called "Operation Nightingale". The department of health shall design, with the assistance of the University of Hawaii, a review and training course to enable graduates of nursing schools to pass the written examination required for the commission on graduates of foreign nursing schools, or the written examination required by the state board of nursing, or both. Classes may be conducted on a full time basis during daytime hours on weekdays at Leahi Hospital or at such other site as the department of health may deem appropriate.

Additionally, the department of health shall establish requirements and procedures for the selection of candidates for the pilot program. Candidate selection shall be made through a committee comprised of the director of health or a designated representative, the president of the University of Hawaii or a designated representative, a representative of the Hawaii nurses association, and a representative selected by the director of health from each of the hospitals within the State.

SECTION 3. Duration of program; reporting requirement. The nursing license examination preparation pilot program shall operate for two years. The department of health shall submit to the legislature not later than twenty days prior to the convening of the regular session of 1989 a report of the performance of the pilot program and any other matter which may be relevant.

SECTION 4. Appropriation. 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 1988-1989 for the nursing license examination program. The sum appropriated shall be expended by the department of health for the purpose of this Act.

SECTION 5. This Act shall take effect on July 1, 1988.

(Approved June 7, 1988.)

ACT 213

S.B. NO. 2955

A Bill for an Act Relating to Adult Residential Care Homes.

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

SECTION 1. Section 346-53, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) The director [shall], pursuant to chapter 91, shall determine the rate of payment for the different levels of domiciliary care provided to recipients eligible either for Federal Supplemental Security Income or public assistance in accordance with state standards[.] or both. The director shall provide for level of care increases effective July 1, 1988, in amounts not less than \$60 for each level of care.

The rate of payment at which level a recipient enters an adult residential care home licensed pursuant to section 321-15.6 shall remain the same for as long as the recipient resides in that adult residential care home. The rate of payment may be raised if the recipient's condition so requires, or by rule of the department in accordance with this subsection; provided that [notwithstanding]:

- (1) Notwithstanding the rate of payment at the time of entry, the department shall ensure that the recipient shall receive the quality of care consistent with the level of care as determined by the department; [provided further that if] and
- (2) If the operator does not provide the quality of care consistent with the needs of the individual as determined by and to the satisfaction of the department, the department may reduce the rate of payment, or adjust the level of care, or remove the recipient to another facility.

The department shall handle abusive practices under this section in accordance with chapter 91.

Nothing in this subsection shall allow the director to remove a recipient from an adult residential care home or other similar institution if the recipient does not desire to be removed and the operator thereof is agreeable to the recipient remaining therein, except where the recipient requires a higher level of care than provided thereby, or where the recipient no longer requires any domiciliary care."

SECTION 2. The legislative auditor shall conduct a study on the adequacy of the level of care payment schedules for adult residential care homes established by the director of human services pursuant to section 346-53, Hawaii Revised Statutes. The legislative auditor shall also look to vacancy, admission, and demand problems experienced by adult residential care home operators, as well as to determine whether it is feasible, or if there is a need, for annual cost of living increases. The legislative auditor shall submit a report of its findings and recommendation not later than twenty days prior to the convening of the Regular Session of 1989. 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 1988-1989, to conduct the study required in this section. The sum appropriated shall be expended by the legislative auditor.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,575,120, or so much thereof as may be necessary for fiscal year 1988-1989, to implement section 1 of this Act. The sum appropriated shall be expended by the department of human services.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 1988.

(Approved June 7, 1988.)

ACT 214

S.B. NO. 3195

A Bill for an Act Relating to Housing.

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

SECTION 1. The legislature finds that there exists a critical shortage of housing units that are affordable to low- and moderate-income residents, and residents in the so-called "gap-group" in the State. Many adverse long-term economic factors such as interest rates for mortgages and construction loans, the high cost and limited availability of residentially designated and zoned land, particularly on Oahu, the cost of construction, the relatively high cost of living, relatively low family incomes in comparison to the national average of comparable high cost areas,

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and an increase in the number of households in the State, have interacted to negatively impact residential development in the State. Over the past decade there has been a nearly uninterrupted decline in the supply of new residential units affordable to the lower- and moderate-income residents and residents within the gap-group. This decline is in response to market conditions and the profit motives of the private sector whereby the greatest profits may be derived from the production of higher priced housing. This decline in new production, when combined with population and household increases, has aggravated an already critical housing shortage. In 1986, for example, there was a shortfall of over 20,000 housing units statewide, based on the lag in housing production versus the increase in resident population from 1980 to 1986. There are also other indicators of a tight housing market, including a low vacancy rate, overcrowding, and a large number of families paying in excess of thirty-five per cent of their incomes for rent.

The legislature finds that these conditions cause an increase in discontent, despair, and crime, and constitute a menace to the health, safety, morals, and welfare of residents of the State; that these conditions cannot be remedied by the ordinary operations of private enterprise; that sufficient resources to provide an aggressive affordable housing development program for low- and moderate-income, and gap-group residents do not exist; and that the provision of safe, sanitary, and affordable housing accommodations is a public use and purpose for which public money may be spent. The legislature further finds that it is in the public interest that the commitment of a substantial amount of resources be initiated as soon as possible to provide for the development of affordable housing development programs to assist Hawaii's residents who are in need of shelter.

SECTION 2. Part III, chapter 201E, Hawaii Revised Statutes, is amended as follows:

1. By adding a new section to be appropriately designated and to read as follows:

"§201E- Homes revolving fund. (a) There is created a separate revolving fund to be administered by the corporation and to be designated as the "homes revolving fund". The homes revolving fund shall be funded from the proceeds of general obligation bonds of the State, revenue bonds, or other evidences of indebtedness of the State or the corporation, as may be authorized by the legislature from time to time, or from other sources as the legislature may determine.

(b) Pending authorization and issuance of such obligations, the director of finance, with the approval of the governor, may advance \$120,000,000, or so much thereof as is requested by the corporation, to the homes revolving fund from moneys available in the general fund; provided, however, that such moneys advanced from the general fund shall be repaid by the corporation or by the State from the proceeds of obligations issued for the purposes of the fund, or from other sources.

(c) The corporation shall not be required to pay interest on any general fund moneys advanced to the homes revolving fund as provided in subsection (b)."

2. By adding a new section to be appropriately designated and to read as follows:

"§201E- Use of homes revolving fund. (a) Moneys on deposit in the homes revolving fund shall be applied by the corporation from time to time for the purposes of developing and implementing affordable housing development programs. The corporation shall provide the governor with a summary of any program to be developed setting forth the various aspects of the program, including any

projects or loan programs to be a part of the program, the methods of financing projects or loans, the programs, and other information as the corporation deems relevant or as the governor may request. Any affordable housing development program may include, without limitation, development of infrastructure, development of off-site and on-site improvements required for development, providing short-term or interim construction loans, and development and construction of housing. The corporation shall adopt rules in accordance with chapter 91 with respect to the administration of any program and may adopt rules applicable to a single program which are different from rules applicable to other programs.

(b) Moneys on deposit in the homes revolving fund shall be expended by the corporation, subject to the following conditions and limitations:

- (1) Any expenditure from the homes revolving fund shall be made only upon the approval of the governor, after the board of directors of the corporation has determined that the purposes and amounts for which the moneys are to be applied are consistent with the purposes of this section;
 - (2) Expenditures of advances from the general fund authorized by section 201E- may be made by the corporation from time to time with the approval of the director of finance, who may establish procedures and prescribe rules for controlling the expenditure and encumbrance of those funds;
 - (3) Expenditures from the proceeds of general obligation bonds, revenue bonds, other evidences of indebtedness of the State as may be authorized, or from sources in excess of the amount advanced from the general fund under section 201E- , may be expended with the approval of the corporation's board of directors for any authorized purpose, and with the approval of the director of finance and the governor, for any authorized purpose; and
 - (4) Moneys from the homes revolving fund shall not be used for mortgage loans or to pay administrative expenses.
- (c) The corporation shall maintain proper books and records showing, among other things, the amount and purpose of the application of moneys on deposit in the homes revolving fund and the source of the moneys, and separate accounting for earnings on moneys on deposit in the homes revolving fund and proceeds of advances from the general fund and proceeds of borrowings."

SECTION 3. Section 201E-40, Hawaii Revised Statutes, is amended to read as follows:

"[§]201E-40[] Duty to make reports. Except as otherwise provided by law, the housing finance and development corporation shall be responsible for the following reports:

- (1) The [housing finance and development] corporation shall at least once a year file with the governor a report of its activities for the preceding year[.];
- (2) The corporation shall report to the state comptroller on moneys deposited in depositories other than the state treasury under section 40-81, and rules adopted thereunder[.]; and
- (3) The corporation shall submit an annual report to the legislature on the homes revolving fund, twenty days prior to the convening of each regular session, which shall provide the following information on the status of its programs and finances:

- (A) A description of programs being developed in the current fiscal biennium, including a summary listing of such programs, the status of each program, the methods of project financing or loans, and other information deemed significant;
- (B) A description of programs planned for development during the two ensuing fiscal bienniums, including a summary listing of such proposed programs, the methods of project financing or loans, and other information deemed significant;
- (C) A status report of actual expenditures made for the purposes of the homes revolving fund in the prior completed fiscal year, estimated expenditures anticipated for the current fiscal year, and projected expenditures for the ensuing fiscal years to be described in relation to specific affordable housing projects; and
- (D) A financial audit and report conducted on the annual basis by a certified public accounting firm.”

SECTION 4. Section 201E-204, Hawaii Revised Statutes, is amended to read as follows:

“[[§201E-204]] Dwelling unit revolving fund. There is created a dwelling unit revolving fund. The funds appropriated for the purpose of [this chapter] the dwelling unit revolving fund and all moneys received or collected by the corporation [under this chapter] for the purpose of the revolving fund shall be deposited in the revolving fund. The proceeds in the revolving fund shall be used to reimburse the general fund to pay the interest on general obligation bonds issued for the purposes of [this chapter], the revolving fund, for the necessary expenses in administering [the chapter,] this part, and for carrying out the purposes of this [chapter,] part, including, but not limited to, the expansion of community facilities constructed in conjunction with housing projects [for elderly persons], and supplementing building costs, federal guarantees required for operational losses, and all things required by any federal agency in the construction and receipt of federal funds for housing projects [for the elderly].”

SECTION 5. There is hereby appropriated to the homes revolving fund created under this Act from the proceeds of revenue bonds, short-term project notes, or other evidences of indebtedness issued pursuant to chapter 201E and part III of chapter 39, Hawaii Revised Statutes, by the housing finance and development corporation the sum of \$120,000,000. The sum appropriated by this section shall be expended by the corporation in accordance with this Act.

SECTION 6. Notwithstanding any law to the contrary, the housing finance and development corporation, with the approval of the governor, may issue revenue bonds, short-term project notes, or other evidences of indebtedness pursuant to chapter 201E and part III of chapter 39, Hawaii Revised Statutes, in an aggregate principal amount sufficient to yield the amount appropriated by section 5 of this Act, at such times and in such amounts deemed advisable for the purpose of funding the appropriation provided in section 5 of this Act to the homes revolving fund or providing for the repayment of advances made to the homes revolving fund from the general fund pursuant to section 201E-

SECTION 7. If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of this Act, or the application of the provision to other persons or circumstances, shall not be affected thereby.

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

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

(Approved June 7, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 215

S.B. NO. 3188

A Bill for an Act Relating to Housing.

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

SECTION 1. Chapter 201E, Hawaii Revised Statutes, is amended as follows:

1. By amending section 201E-131 to read as follows:

“[§]201E-131[] Definitions. The following words or terms as used in this subpart shall have the following meanings unless a different meaning clearly appears from the context:

“Eligible project” means a rental housing project which:

- (1) Is financed by the corporation pursuant to subpart II.B. or II.C. [of this chapter], or the corporation determines will require rental assistance to make it financially feasible;
- (2) Is subject to a regulatory agreement with the corporation;
- (3) Maintains at least twenty per cent of its units for eligible tenants; and
- [4] Other than a unit reserved for a manager of the project, maintains the remainder of its units for moderate income persons and families, whose incomes shall not exceed the limits set forth in section 201E-62(b); and
- (5) Meets other qualifications as established by rules adopted by the corporation.

Notwithstanding any provisions to the contrary, “eligible project” may also include a rental housing project which is financed by the corporation pursuant to subpart II.A.

“Eligible tenant” means a family or an individual [of low or moderate income as determined by the Secretary of the United States Treasury Department in accordance with the Internal Revenue Code of 1954, as amended] whose income does not exceed eighty per cent of the area median income as determined by the United States Department of Housing and Urban Development.

“Owner” means the owner of an eligible project.

“Regulatory agreement” means an agreement between the corporation and the owner relating to an eligible project which includes provisions relating to rents, charges, profits, return on owner’s equity, development costs, and methods of operation.

“Rental assistance contract” means an agreement between an owner and the corporation providing for periodic rental assistance payment for units in an eligible project.”

2. By amending section 201E-132(c) to read as follows:

“(c) Earnings on the investment of the rental assistance revolving fund and amounts recovered by the corporation pursuant to section 201E-134(f) may be applied by the corporation to payments under the rental assistance contracts or to subsidize tenants’ rents in projects developed under subpart II.A.”

3. By amending section 201E-133(a) to read as follows:

"(a) The corporation may enter into a rental assistance contract and a regulatory agreement with [an] the owner of an eligible project[.], when the owner of an eligible project is other than the corporation."

4. By amending section 201E-134(f) to read as follows:

"(f) When an eligible project is not owned by the corporation, the [The] corporation shall be entitled to share in any appreciation in value of an eligible project realized at the time of refinancing or prepayment of the eligible project loan. The corporation's share shall be calculated by multiplying the appreciation of the eligible project realized upon refinancing or prepayment by the ratio of the owner's equity to the discounted value of the aggregate rental assistance payments. The discount rate shall be established by rules adopted by the corporation."

5. By amending section 201E-204 to read as follows:

"[[§201E-204[]] Dwelling unit revolving fund. There is created a dwelling unit revolving fund. The funds appropriated for the purpose of this [chapter] part and all moneys received or collected by the corporation under this [chapter] part shall be deposited in the revolving fund. The proceeds in the fund shall be used to reimburse the general fund to pay the interest on general obligation bonds issued for the purposes of this [chapter,] part, for the necessary expenses in administering the [chapter,] part, and for carrying out the purposes of this [chapter,] part, including, but not limited to, the expansion of community facilities constructed in conjunction with housing projects [for elderly persons], and supplementing building costs, federal guarantees required for operational losses, and all things required by any federal agency in the construction and receipt of federal funds for housing projects [for the elderly]."

6. By amending section 201E-212(a) to read as follows:

"(a) In any county, the corporation may develop or may enter into agreements for housing projects with an eligible developer if in the corporation's reasonable judgment a project is primarily designed for lower income housing. The agreement may provide for the housing to be placed under the control of the corporation, or to be sold by the corporation, or to be sold to the corporation as soon as the units are completed and shall contain such terms, conditions, and covenants as the corporation, by rules, deems appropriate[, and every]. Every agreement shall provide for the developer to furnish a performance bond, in favor of the corporation, assuring the timely and complete performance of the housing project. Sureties on the bond must be satisfactory to the corporation."

7. By amending section 201E-221(b) and (c) to read as follows:

"(b) The restrictions prescribed in subsection (a) may be waived if:

- (1) The purchaser wishes to transfer title to the dwelling unit and the property or lease by devise or through the laws of descent to a family member who would otherwise qualify under rules established by the corporation; or
- (2) The corporation determines, in accordance with adopted rules, that the sale or transfer of a dwelling unit would be at a price and upon terms that preserves the intent of this section without the necessity of the State to repurchase the unit[; provided that the restrictions prescribed in subsection (a) shall be reinstated after the transfer of title and shall be fully effective and applicable to the transferee].

(c) The restrictions prescribed in subsection (a) shall be automatically extinguished and shall not attach in subsequent transfers of title when a mortgage holder or other party becomes the owner of the dwelling unit and the land or leasehold interest pursuant to a mortgage foreclosure, foreclosure under power of sale, or a conveyance in lieu of foreclosure after a foreclosure action is commenced. Any law to the contrary notwithstanding, a mortgage under a mortgage covering

a dwelling unit and land or leasehold interest encumbered by the first option to purchase in favor of the corporation, prior to commencing mortgage foreclosure proceedings, shall notify the corporation of (1) any default of the mortgagor under the mortgage within ninety days after the occurrence of the default, and (2) any intention of the mortgagee to foreclose the mortgage under chapter 667. The corporation shall be a party to any foreclosure action, and shall be entitled to all proceeds remaining in excess of all customary and actual costs and expenses of transfer pursuant to default, including liens and encumbrances of record; provided that the person in default shall be entitled to an amount which shall not exceed the sum of amounts determined pursuant to subsection (a)(1)(B) and (C) and the purchaser's equity in the property."

8. By amending section 201E-222(d) to read as follows:

"(d) The restrictions prescribed in subsection (a) shall be automatically extinguished and shall not attach in subsequent transfers of title as prescribed in section [201E-221(c)] 201E-221(b) and (c)."

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii, the sum of \$10,000,000, or so much thereof as may be necessary for fiscal year 1988-89, to be paid into the rental assistance revolving fund created under section 201E-132, Hawaii Revised Statutes. The sum appropriated shall be expended by the housing finance and development corporation for the purposes of the fund.

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

SECTION 4. This Act shall take effect on July 1, 1988.

(Approved June 7, 1988.)

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S.B. NO. 3080

A Bill for an Act Relating to the Income Tax Law.

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

SECTION 1. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§235- Low-income housing tax credit. (a) Section 42 (with respect to low-income housing credit) of the Internal Revenue Code shall be operative for the purposes of this chapter as provided in this section.

(b) There shall be allowed to each resident taxpayer subject to the tax imposed by this chapter, a low-income housing tax credit which 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.

(c) The low-income housing tax credit shall be thirty per cent of the applicable percentage of the qualified basis of each building located in Hawaii. Applicable percentage shall be calculated as provided in section 42(b) of the Internal Revenue Code.

(d) For the purposes of this section, the determination of:

(1) Qualified basis and qualified low-income building shall be made under section 42(c);

- (2) Eligible basis shall be made under section 42(d);
- (3) Qualified low-income housing project shall be made under section 42(g);
- (4) Recapture of credit shall be made under section 42(j), except that the tax for the taxable year shall be increased under section 42(j)(1) only with respect to credits that were used to reduce state income taxes;
- (5) Application of at-risk rules shall be made under section 42(k);

of the Internal Revenue Code.

(e) As provided in section 42(e), rehabilitation expenditures shall be treated as separate new building and their treatment under this section shall be the same as in section 42(e). The definitions and special rules relating to credit period in section 42(f) and the definitions and special rules in section 42(i) shall be operative for the purposes of this section.

(f) The state housing credit ceiling under section 42(h) shall be zero for any calendar year after 1989, except for the carryover of the 1989 limit for certain projects in progress which meet the requirements of section 42(n).

(g) The credit allowed under this section shall be claimed against net income tax liability for the taxable year. For the purpose of deducting this tax credit, net income tax liability means net income tax liability reduced by all other credits allowed the taxpayer under this chapter.

A tax credit under this section which exceeds the taxpayer's income tax liability may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted. All claims for a tax credit under this section must 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 properly claim the credit shall constitute a waiver of the right to claim the credit. In order to claim a credit under this section, a taxpayer must claim a credit under section 42 of the Internal Revenue Code.

Section 469 (with respect to passive activity losses and credits limited) of the Internal Revenue Code shall be applied in claiming the credit under this section.

(h) The director of taxation may adopt any rules under chapter 91 and forms necessary to carry out this section."

SECTION 2. Chapter 201E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§201E- Administration of low-income housing credit allowed under section 235- (a) The housing finance and development corporation is designated as the state housing credit agency to carry out section 42(h) (with respect to limitation on aggregate credit allowable with respect to project located in a state) of the Internal Revenue Code of 1986. As the state housing credit agency, the corporation shall determine the eligibility basis for a qualified low-income building, make the allocation of housing credit dollar amounts within the State, and determine the portion of the State's housing credit ceiling set aside for projects involving qualified nonprofit organizations. The corporation shall file any certifications and annual reports required by section 42 (with respect to low-income housing credit) of the Internal Revenue Code of 1986.

(b) The state aggregate housing credit dollar amount shall be allocated annually as required by section 42 of the Internal Revenue Code of 1986 by the corporation in an amount equal to \$1.25 multiplied by the state population in the calendar year as provided by section 42(h) of the Internal Revenue Code of 1986.

(c) The corporation shall adopt rules under chapter 91 necessary to comply with federal and state requirements for determining the amount of the tax credit allowed under section 42 of the Internal Revenue Code of 1986 and section 235-

The corporation may establish and collect reasonable fees for administrative expenses incurred in providing the services required by this section, including fees for processing developer applications for the credit. All fees collected for administering these provisions, including developer application fees, shall be deposited into the corporation's housing finance revolving fund to be used to cover the administrative expenses of the corporation.

(d) All claims for allocation of the low-income housing credit under section 235- shall be filed with the corporation. The corporation shall determine the amount of the credit allocation, if necessary, and return the claim to the taxpayer. The taxpayer shall file the credit allocation with the taxpayer's tax return with the department of taxation."

SECTION 3. Section 235-2.3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The following Internal Revenue Code subchapters, parts of subchapters, sections, subsections, and parts of subsections shall not be operative for the purposes of this chapter, unless otherwise provided:

- (1) Subchapter A (sections 1 to 59) (with respect to determination of tax liability), except section 42 (with respect to the low-income housing credit) and except¹ sections 47 and 48, as amended, as of December 31, 1984, (with respect to certain depreciable tangible personal property). For treatment, see [section] sections 235- and 235-110.7.
- (2) Section 78 (with respect to dividends received from certain foreign corporations by domestic corporations choosing foreign tax credit).
- (3) Section 86 (with respect to social security and tier 1 railroad retirement benefits).
- (4) Section 103 (with respect to interest on state and local bonds). For treatment, see section 235-7(b).
- (5) Section 120 (with respect to amounts received under qualified group legal services plans). For treatment, see sections 235-2.4 and 235-7(a)(9) to (11).
- (6) Section 122 (with respect to certain reduced uniformed services retirement pay). For treatment, see section 235-7(a)(3).
- (7) Subchapter B (sections 141 to 150) (with respect to tax exemption requirements for state and local bonds).
- (8) Section 151 (with respect to allowance of deductions for personal exemptions). For treatment, see section 235-54.
- (9) Section 169 (with respect to amortization of pollution control facilities). For treatment, see section 235-11.
- (10) Section 196 (with respect to deduction for certain unused investment credits).
- (11) Subchapter B, part VIII (sections 241 to 250) (with respect to special deductions for corporations), except sections 248 (with respect to organizational expenditures) and 249 (with respect to limitation on deduction of bond premium on repurchase). For treatment, see section 235-7(c).
- (12) Section 269A (with respect to personal service corporations formed or availed of to avoid or evade income tax).
- (13) Section 280C (with respect to certain expenses for which credits are allowable).
- (14) Section 280D (with respect to portion of chapter 45 taxes for which credit or refund is allowable under section 6429).

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- (15) Section 291 (with respect to special rules relating to corporate preference items).
- (16) Section 367 (with respect to foreign corporations).
- (17) Section 501(c)(12), (15), (16) (with respect to exempt organizations).
- (18) Section 515 (with respect to taxes of foreign countries and possessions of the United States).
- (19) Section 521 (with respect to exemption of farmers cooperatives from tax). For treatment, see section 421-23.
- (20) Subchapter G (sections 531 to 565) (with respect to corporations used to avoid income tax on shareholders).
- (21) Subchapter H (sections 581 to 596) (with respect to banking institutions). For treatment, see chapter 241.
- (22) Section 642(a), (b), and (d) (with respect to special rules for credits and deductions).
- (23) Section 668 (with respect to interest charge on accumulation distributions from foreign trusts).
- (24) Subchapter L (sections 801 to 846) (with respect to insurance companies). For treatment, see sections 431-318 and 431-320.
- (25) Section 853 (with respect to foreign tax credit allowed to shareholders). For treatment, see section 235-55.
- (26) Subchapter N (sections 861 to 999) (with respect to tax based on income from sources within or without the United States), except part IV (sections 991 to 997) (with respect to domestic international sales corporations). For treatment, see sections 235-4, 235-5, and 235-7(b).
- (27) Section 1055 (with respect to redeemable ground rents).
- (28) Section 1057 (with respect to election to treat transfer to foreign trust, etc., as taxable exchange).
- (29) Section 1201 (with respect to alternative tax). For treatment, see section 235-71(a).
- (30) Subchapter Q (sections 1311 to 1351) (with respect to readjustment of tax between years and special limitations).
- (31) Subchapter T (sections 1381 to 1388) (with respect to cooperatives and their patrons). For treatment, see chapter 421."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.²

SECTION 5. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1987.

(Approved June 7, 1988.)

Notes

1. So in original.

2. Edited pursuant to HRS §23G-16.5.

ACT 217

S.B. NO. 2988

A Bill for an Act Amendment and Appropriation to the State Rent Supplement Program.

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

SECTION 1. The median gross rent on Oahu is \$413 per month. The average family income of those in the rent supplement program is \$15,331. The rent sup-

plement program bases its payments on twenty per cent of the adjusted income. Therefore, the average recipient family's responsibility should be \$255. The present rent supplement of \$70 thus does not accurately reflect current income and present rental values for the average recipient.

An average of 54,894 families between 1982 and 1984 had an income of less than \$15,000. The rent supplement program with a maximum payment of \$70 fails to address their needs.

The needs of elderly recipients are similar. At this time, however, it seems appropriate to investigate the effects of a rent supplement increase on their discretionary dollars, as their income is generally fixed, and they thus have less flexibility in managing resources.

To raise the supplement to \$160 for both families and elderly persons presently in the rent supplement program would require an increase in the present budget. Moreover, the average number of families on the waiting list for the rent supplement program is three hundred one, while the average number of waiting list elderly is sixty-three. These applicants must be served in a more efficient manner. An increase in the rent supplement program would address their concerns.

SECTION 2. Section 359-121, Hawaii Revised Statutes, is amended to read as follows:

“§359-121 Rent supplements. The Hawaii housing authority is authorized to make, and contract to make, annual payments to a “housing owner” on behalf of a “qualified tenant”, as those terms are defined [herein,] in this part, in such amounts and under such circumstances as are prescribed in or pursuant to this part. In no case shall a contract provide for such payments with respect to any housing for a period exceeding forty years. No payment on behalf of a qualified tenant shall exceed a segregated amount of [\$70] \$160 a month; provided that payments on behalf of elderly persons as defined in section 359-2 shall not exceed a segregated amount of [\$90] \$160 a month.”

SECTION 3. Section 359-122, Hawaii Revised Statutes, is amended to read as follows:

“§359-122 Housing owner defined. As used in this part, the term “housing owner” means (1) a private nonprofit corporation or other private nonprofit legal entity, a limited dividend corporation or other limited dividend legal entity, or a cooperative housing corporation, which is a mortgagor under sections 202, 207, 213, 221(d)(3), 221(d)(5), or 231 of the National Housing Act or which conforms to the standards of those sections but which is not a mortgagor under those sections or any other private mortgagor under the National Housing Act for low or moderate-income family housing, regulated or supervised under federal or state laws or by political subdivisions of the State, or agencies thereof, as to rents, charges, capital structure, rate of return, and methods of operation, from the time of issuance of the building permit for the project, and (2) any other [resident] owner of a standard housing unit or units deemed qualified by the Hawaii housing authority.”

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii, the sum of \$2,519,040, or so much thereof as may be necessary for fiscal year 1988-1989, for the State's rent supplement program.

SECTION 5. The sum appropriated shall be expended by the Hawaii housing authority for the purposes of this Act.

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

SECTION 7. This Act shall take effect on July 1, 1988.

(Approved June 7, 1988.)

ACT 218

H.B. NO. 2071

A Bill for an Act Making An Appropriation for the Renovation of Buildings or Construction of Emergency Shelters.

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 \$492,470, or so much thereof as may be necessary for fiscal year 1988-1989, to provide grant-in-aid funding to the department of business and economic development for the purpose of plans and designs for constructing and rehabilitating buildings as emergency shelters for evictees and other homeless people, especially single parents and other families and individuals with limited incomes:

A.	ISLAND OF HAWAII (Estimated 600 Homeless)	
1)	Catholic Charities	\$176,500
B.	ISLAND OF MAUI (780 Homeless)	
1)	Lahaina/Salvation Army	\$150,500
C.	ISLAND OF OAHU (Estimated 2,500 Homeless)	
1)	Maililand Transitional Shelter; Aina Kupa'a O Maili, Inc.	\$20,470
2)	Hale Kokua Emergency Shelter for Women and Children and Elderly Homeless; Hawaii Ecumenical Housing Corporation	\$ 80,000
D.	ISLAND OF KAUAI (Estimated 341 Homeless)	
1)	Kauai Economic Opportunity, Inc.	\$ 65,000

SECTION 2. The sum appropriated shall be expended by the department of business and economic development for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 1988.

(Approved June 7, 1988.)

ACT 219

H.B. NO. 3408

A Bill for an Act Relating to a Civil Rights Commission.

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 CIVIL RIGHTS COMMISSION”

PART I. GENERAL PROVISIONS

§ -1 Purpose and intent. The legislature finds and declares that the practice of discrimination because of race, color, religion, age, sex, marital status, national origin, ancestry, handicapped status, or medical condition in employment, housing, or public accommodations is against public policy. It is the purpose of this Act to provide a mechanism which provides for a uniform procedure for the enforcement of the State's discrimination laws. It is the legislature's intent to preserve all existing rights and remedies under such laws.

§ -2 Civil rights commission established. (a) There is established a civil rights commission composed of five members nominated and, by and with the advice and consent of the senate, appointed by the governor for staggered terms in accordance with section 26-34. The governor shall designate one of the commissioners as the chair of the commission.

(b) Any action taken by the commission shall be by a simple majority of the members of the commission. All decisions of the commission shall be reduced to writing and shall state separately its findings of fact and conclusions. Any vacancy in the commission shall not impair the authority of the remaining members to exercise all the powers of the commission. The governor may appoint an acting member of the commission during the temporary absence from the State or the 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.

(c) The commission shall be within the department of labor and industrial relations for administrative purposes only.

§ -3 Powers and functions of commission. The commission shall have the following powers and functions:

- (1) To receive, investigate, and conciliate complaints alleging any unlawful discriminatory practice under existing state laws and conduct proceedings on complaints alleging unlawful practices where conciliatory efforts are inappropriate or unsuccessful.
- (2) To hold such hearings and make such inquiries, as it deems necessary, to carry out properly its functions and powers, and for the purpose of such hearings and inquiries, administer oaths and affirmations, examine witnesses and documents, take testimony and receive documents by the issuance of subpoenas, and delegate such powers to any member of the commission or any person appointed by the commission for the performance of its functions.
- (3) To commence civil action in circuit court to seek appropriate relief.
- (4) To issue the right to sue to a complainant.
- (5) To issue publications and results of investigations and research as in its judgement will tend to promote goodwill and minimize or eliminate discrimination in employment, housing, and public accommodations.
- (6) To submit annually to the governor and the legislature a written report of its activities and of its recommendations for administrative or statutory changes required to further the purposes of this chapter.
- (7) To adopt rules under chapter 91.

§ -4 Records; reporting requirements. The commission shall maintain complete records of all complaints filed with the commission and shall compile

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annual statistical data on the number of complaints filed and the status or disposition of such complaints by types of complaints. The commission shall provide to the governor and the legislature a report of such statistical data on an annual basis, not less than thirty days prior to the convening of the legislative session.

§ -5 Penalties. Whoever intentionally resists, prevents, impedes, or interferes with the commission or any of its authorized agents or representatives in the performance of duties pursuant to this chapter, or who in any manner intentionally violates an order of the commission, shall be fined not more than \$500, or imprisoned for not more than ninety days, or both."

SECTION 2. It is the intent of this Act to preserve all existing rights and remedies relating to the enforcement of current discrimination laws, and to this end, this Act shall not be construed to impair any contractual agreement currently in force between the State and the federal Equal Employment Opportunities Commission under Title VII of the Civil Rights Act of 1964.

SECTION 3. The legislative auditor, with assistance from the legislative reference bureau, and affected state departments and agencies, and interested public groups, shall conduct a review of all state discrimination laws and the current policies, procedures, and staffing of the respective state departments and agencies with respect to the enforcement of such laws for the purpose of reporting to the legislature:

- (1) The current status regarding the enforcement of the state's discrimination laws by the respective state departments and agencies;
- (2) Recommendations for a statutory mechanism for the establishment of a systematic and uniform procedure for the enforcement of state discrimination laws by the civil rights commission established by this Act, and any proposed amendments to the powers and functions of the commission;
- (3) A recommendation for staffing requirements of the civil rights commission to carry out its duties under this Act;
- (4) A recommendation for a transition timetable for the transfer of programs and services to the civil rights commission;
- (5) A recommendation on a proper mechanism to address alleged discrimination within state departments and agencies; and
- (6) Any relevant recommendations or considerations necessary for the Legislature to fully address the question of diligent and effective enforcement of the state's discrimination laws.

The department shall submit a report of its findings and recommendations to the Legislature not less than twenty days prior to the convening of the 1989 Regular Session.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$10,000, or so much thereof as may be necessary for fiscal year 1988-1989, for the legislative reference bureau to assist the legislative auditor in carrying out the purposes of this Act. The sum appropriated shall be expended by the legislative reference bureau for the purposes of this Act.

SECTION 5. This Act shall take effect on July 1, 1989; provided, Sections 3 and 4 shall take effect upon approval.

(Approved June 7, 1988.)

ACT 220

S.B. NO. 251

A Bill for an Act Relating to State Holidays.

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

SECTION 1. Section 8-1, Hawaii Revised Statutes, is amended to read as follows:

“§8-1 Holidays designated. The following days of each year are set apart and established as state holidays:

The first day [of] in January, New Year's Day;

The third Monday in January, Dr. Martin Luther King, Jr., Day;

The third Monday in February, Presidents' Day;

The twenty-sixth day [of] in March, Prince Jonah Kuhio Kalanianaole Day;

The Friday preceding Easter Sunday, Good Friday;

The last Monday in May, Memorial Day;

The eleventh day [of] in June, King Kamehameha I Day;

The fourth day [of] in July, Independence Day;

The third Friday in August, Admission Day;

The first Monday in September, Labor Day;

[The second Monday in October, Discoverers' Day;]

The eleventh day in November, Veterans' Day;

The fourth Thursday in November, Thanksgiving Day;

The twenty-fifth day [of] in December, Christmas Day;

All election days, except primary and special election days, in the county wherein the election is held;

Any day designated by proclamation by the President of the United States or by the governor as a holiday.”

SECTION 2. Section 8-5, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) The commission shall be the coordinating agency for all state sponsored as well as other celebration events staged during the celebration period as designated by the commission to assure activities planned are timely and appropriate to commemorate the memory of King Kamehameha I. The commission is authorized to determine to whom and for which occasions permission is to be granted for the use of the statue of King Kamehameha I.”

SECTION 3. Section 8-6, Hawaii Revised Statutes, is repealed.

SECTION 4. Chapter 8, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§8- Discoverers' Day. The second Monday in October shall be known as Discoverers' Day, in recognition of the Polynesian discoverers of the Hawaiian Islands, provided that this day is not and shall not be construed to be a state holiday.”

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 6. This Act shall take effect on January 1, 1989.

(Approved June 7, 1988.)

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Note

1. Edited pursuant to HRS §23G-16.5.

ACT 221

H.B. NO. 2638

A Bill for an Act Establishing a Commission to Celebrate the Arrival of Okinawans to Hawaii.

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

SECTION 1. The legislature finds that since the arrival of the first Okinawans in Hawaii in January, 1900, the Okinawan people have contributed significantly to all phases of Hawaii's development. The rich culture and proud heritage of the Okinawan people have been and continue to be positive influences upon life in Hawaii. Recognition of the contributions of the Okinawan people and their culture is important to promoting and maintaining cognizance of Hawaii's diverse and multicultural society. The year 1990 will mark the ninetieth anniversary of the arrival of the Okinawan people in Hawaii, and a celebration to commemorate their arrival and subsequent achievements in Hawaii is appropriate. The purpose of this Act is to provide for the celebration of the ninetieth anniversary of the Okinawan people in Hawaii.

SECTION 2. Creation of the Okinawan celebration commission. There is established a temporary commission to be known as the Okinawan celebration commission which shall have charge of all arrangements for the commemoration of the ninetieth anniversary of the arrival of the first Okinawan to Hawaii. The commission shall be placed within the office of the governor for administrative purposes and shall cease to operate after June 30, 1991.

SECTION 3. Membership, compensation. The commission shall consist of fifteen members to be appointed by the governor without regard to section 26-34, Hawaii Revised Statutes. Four of the members shall be representatives from the four counties, and the remaining members shall represent government, labor, business, and the community at large. The governor shall designate the chair of the commission from among the appointed members. The members shall not receive compensation for their services but shall be reimbursed for necessary expenses, including travel expenses, incurred in the performance of their duties under this Act.

SECTION 4. Powers and duties. The commission shall prepare an overall program to celebrate the ninetieth anniversary of the arrival of the Okinawan people to Hawaii, their significant contributions to the development of this State, and their culture and heritage. The commission shall develop, plan, and coordinate the various program activities that are to be scheduled throughout the year of the celebration and shall encourage the participation of all segments of the Okinawan community. The commission shall consider any related plans and programs developed by the United Okinawan Association and other interested private and public organizations or agencies from whose members the commission may designate special committees to plan, develop, and coordinate specific projects or activities.

The commission shall submit to the governor a comprehensive report for the ninetieth anniversary celebration which shall include, but not be limited to:

- (1) The production, publication, and distribution of books, films, and other educational materials on the life and experiences of Okinawans in Hawaii;
- (2) Conferences, convocations, lectures, and seminars; and
- (3) Ceremonies, theatrical productions, and other special events commemorating the anniversary.

SECTION 5. Cooperation. In fulfilling its responsibilities, the commission shall consult, cooperate with, and seek the advice from, the United Okinawan Association and other appropriate organizations or agencies.

SECTION 6. Trust fund established. There is hereby created a trust fund to be known as the ethnic celebration trust fund which shall consist of payments made to the trust fund as provided in this Act. All moneys received by the commission shall be deposited by the state director of finance into the trust fund and expended by the commission for the purposes of this Act. Disbursement of such moneys shall be by state warrants issued in accordance with applicable laws and rules and shall be based on vouchers signed by the chair of the commission.

The commission may seek grants from public and private sources and may accept donations to finance the projects, programs, and activities of the ninetieth anniversary celebration.

All property acquired by the commission shall be deposited for preservation in the state library system, museums, and public archives or shall otherwise be disposed of as directed by the commission.

SECTION 7. Final report. At the end of its term, the commission shall submit to the governor a final report of all its activities, including an accounting of all moneys received and disbursed.

SECTION 8. There is appropriated out of the general revenues of the State of Hawaii the sum of \$25,000, or so much thereof as may be necessary for fiscal year 1988-1989, to carry out the purposes of this Act. The sum appropriated shall be expended by the office of the governor for the purposes of this Act.

SECTION 9. This Act shall take effect upon approval.

(Approved June 8, 1988.)

ACT 222

H.B. NO. 2627

A Bill for an Act Making an Appropriation to Fund the Statewide Collection and Disposal of Hazardous Wastes Produced by Farmers and Householders in Hawaii.

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

SECTION 1. The legislature finds that the proper and economical disposal of the hazardous wastes produced by Hawaii's farmers and householders is an important problem that needs to be addressed immediately. Some of these wastes are carcinogenic, acutely toxic, or may contaminate drinking water supplies. Traces of pesticides have already been found in Hawaii's wells.

Currently, there are no hazardous waste landfill sites or treatment and storage facilities in the State and the shipment of wastes to mainland facilities for disposal is very costly.

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Farmers are especially affected if they buy more agricultural pesticides than they can use. The problem is aggravated if the pesticide is banned by the Environmental Protection Agency. In that case, farmers are not only left with a storage problem for their oversupply of pesticides, but an oversupply of an illegal pesticide.

Another problem area is toxic chemicals in the household. Everyday, toxic household chemicals are poured down sinks, flushed down toilets, emptied into backyards, or thrown out with the trash. They are toxic, corrosive, caustic, flammable, reactive, or explosive and are found in such common products as insect and roach sprays, rust removers, batteries, drain cleaners, oven cleaners, and disinfectants.

There are, however, no regulations controlling them, and they can harm homeowners, communities, and the environment in many ways. Municipal treatment plants are designed to process natural wastes only, so the hazardous wastes flushed into these systems may damage them or impair the treatment process. Wastes thrown out with the trash are crushed along with other garbage and can injure either refuse workers or workers at landfills, where they may also leach into the soil. Toxic wastes poured on the ground can contaminate drinking water supplies and those poured into storm drains can contaminate marine waters.

The purpose of this Act is to appropriate funds for the statewide collection and disposal of pesticides and hazardous wastes produced by householders and farmers.

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 1988-1989, to fund the statewide collection and disposal of certain pesticides and hazardous wastes; provided that the department of health shall limit the collection and disposal of pesticides from farmers to those that have been banned by law for agricultural purposes.

SECTION 3. The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 1988.

(Approved June 8, 1988.)

ACT 223

H.B. NO. 2090

A Bill for an Act Relating to Seat Belts.

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

SECTION 1. Section 291-11.6, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) A person who fails to comply with the requirements of this section shall be subject to a fine of [\$15] \$20 for each violation but shall not be guilty of a violation for which points shall be assessed pursuant to section 286-128.”

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

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

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

(Approved June 8, 1988.)

ACT 224

H.B. NO. 461

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds to Assist Industrial Enterprises.

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

SECTION 1. The legislature finds that relatively low prices for oil and gas have contributed to an alarming lack of concern for the development of alternative energy resources and that development of such resources should occur before a recurrence of the energy crisis of the 1970's. The legislature finds that part V, chapter 39A, Hawaii Revised Statutes, permits the State to financially assist industrial enterprises through the issuance of special purpose revenue bonds.

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 of the State.

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 in one or more series special purpose revenue bonds in a total amount not to exceed \$5,000,000 for the purpose of assisting Island Power Company, a Hawaii Corporation, in the construction and operation of the Upper Wailua Hydroelectric Project and related facilities on the Wailua River in Kauai County. The entire output of such plant shall be made available for use by members of the general public by sale to the Citizens Utilities system. The legislature finds and determines that the activity and facilities of Island Power Company 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 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. This Act shall take effect upon its approval.

(Approved June 8, 1988.)

ACT 225

H.B. NO. 3297

A Bill for an Act Relating to Real Estate.

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

SECTION 1. Section 467-30, Hawaii Revised Statutes, is amended to read as follows:

“§467-30 Licenses and bonding required to operate condominium hotel.

(a) As used in this section, “condominium hotel” includes those apartments in a

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project as defined in section 514A-3 and subject to chapter 514A, [providing] which may provide for customary hotel services including, but not limited to, front desk, restaurant, [daily] maid [and] or linen service, bell service, or telephone switchboard.

(b) Any sole proprietor, partnership, corporation, or other business entity who, in the operation of a condominium hotel engages in any activity set forth in the definitions of "real estate", "real estate broker", and "real estate salesman" in section 467-1 and who also is not a custodian or caretaker shall:

- (1) Obtain a license as a real estate broker in compliance with this chapter and the rules of the commission[.]; and
- (2) [Register as a condominium operator and provide] Provide evidence of bonding to the real estate commission in an amount equal to \$500 multiplied by the aggregate number of units covered by all of the condominium hotel contracts; except that the minimum of the bond required by this paragraph shall not be less than \$20,000 nor greater than \$100,000. The aggregate number of units excludes the number of units owned by the condominium hotel operator either as a sole proprietor, partnership or corporation. The bond shall protect the [owners of the apartments whose apartments are used to provide customary hotel services.] apartment owners against fraudulent or dishonest acts by the condominium hotel operator in handling the apartment owners' funds; and
- (3) Register on a biennial basis as a condominium hotel operator. Registration information shall include, but not limited to, the number of apartment units managed for others as well as the number of apartment units owned by the condominium hotel operator. Any operator failing to register with the real estate commission within three months of the effective date of this section shall be subject to a fine not exceeding an amount equal to \$25 multiplied by the aggregate number of units being utilized as a condominium hotel. Each month or fraction of a month of non-compliance shall be deemed a new and separate violation.
- (4) A registration fee may be assessed by the commission. Such fees required by this subsection shall be as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91. All fees required by this subsection shall be deposited with the director of finance to the credit of the general fund.

(c) Neither a real estate broker license nor a salesperson license shall be required of those employees of any sole proprietor, partnership, corporation, or other business entity performing or facilitating the delivery of customary hotel services as described in this section."

SECTION 2. The real estate licensure requirement as set forth in section 467-30(b)(1) shall be suspended until June 30, 1989. As an alternative to the bonding requirement, the commission may accept the licensure requirement of section 467-30(b)(1) until June 30, 1989.

SECTION 3. For those condominium hotel operators managing for others ten or less condominium units the bonding requirement of section 467-30(b)(2) shall be suspended until June 30, 1989.

SECTION 4. Chapter 514A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§514A- Common expenses; prior late charges. No association of apartment owners shall deduct and apply portions of common expense payments received

from an apartment owner to unpaid late fees (other than amounts remitted by an apartment owner in payment of late fees) unless it delivers or mails a written notice to such apartment owner, at least seven days prior to the first such deduction, which states that:

- (a) Failure to pay late fees will result in the deduction of late fees from future common expense payments, so long as a delinquency continues to exist.
- (b) Late fees shall be imposed against any future common expense payment which is less than the full amount owed due to the deduction of unpaid late fees from such payment."

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 6. This Act shall take effect upon its approval.

(Approved June 8, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 226

H.B. NO. 3529

A Bill for an Act Relating to Engineers, Architects, Surveyors and Landscape Architects.

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

SECTION 1. Section 464-1, Hawaii Revised Statutes, is amended to read as follows:

"§464-1 Definitions. As used in this chapter:

- [1] "Professional engineer" means a person who engages in the practice of professional engineering as hereinafter defined;
- (2) "Architect" means a person who engages in the practice of architecture as hereinafter defined;
- (3) "Surveyor" or "land surveyor" means a person who engages in the practice of land surveying as hereinafter defined;
- (4) "Landscape architect" means a person who engages in the practice of landscape architecture as hereinafter defined;
- (5) A person practices "professional engineering" who holds oneself out as able to perform, or who does perform, any professional service such as consultation, investigation, evaluation, planning, design, or responsible supervision of construction or operation, in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects, wherein the safeguarding of life, health, or property is concerned or involved when such professional service requires the application of engineering principles and data;
- (6) A person practices "architecture" who holds oneself out as able to perform, or who does perform, any professional service such as consultation, investigation, evaluation, planning, design, including aesthetic and structural design, or responsible supervision of construction, in connection with any private or public buildings, structures, or projects or the equipment or utilities thereof, or the accessories thereto, wherein the safeguarding of life, health, or property is concerned or involved,

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- when such professional service requires the application of the art and science of construction based upon the principles of mathematics, aesthetics, and the physical sciences;
- (7) A person practices "land surveying" who holds oneself out as able to make, or who does make cadastral surveys of areas for their correct determination and description, either for conveyancing or for the establishment or reestablishment of land boundaries or the plotting of lands and subdivisions thereof;
- (8) A person practices "landscape architecture" who holds oneself out as able to perform professional services such as consultation, investigation, reconnaissance, research, design, preparation of drawings and specifications, and responsible supervision where the dominant purpose of such services is: (A) the preservation and enhancement of land uses and natural land features; (B) the location and construction of aesthetically pleasing and functional approaches for structures, roadways, and walkways; and (C) design for equestrian trails, plantings, landscape irrigation, landscape lighting, and landscape grading. This practice shall include the location, arrangements, and design of such tangible objects and features as are incidental and necessary to the purposes outlined herein. Nothing herein shall preclude a duly licensed landscape architect from planning the development of land areas and elements used thereon or from performing any of the services described in this section in connection with the settings, approaches, or environment for buildings, structures, or facilities.

This chapter shall not empower a landscape architect, registered under this chapter, to practice, or offer to practice, architecture or engineering in any of its various recognized branches.]

"Architect" means a person who holds oneself out as able to perform, or who does perform, any professional service such as consultation, investigation, evaluation, planning, design, including aesthetic and structural design, or observation of construction, in connection with any private or public buildings, structures, or projects or the equipment or utilities thereof, or the accessories thereto, wherein the safeguarding of life, health, or property is concerned or involved, when the professional service requires the application of the art and science of construction based upon the principles of mathematics, aesthetics, and the physical sciences.

"Landscape architect" means a person who holds oneself out as able to perform professional services such as consultation, investigation, reconnaissance, research, design, preparation of drawings and specifications, and observation of construction where the dominant purpose of the services is:

- (1) The preservation and enhancement of land uses and natural land features;
- (2) The location and construction of aesthetically pleasing and functional approaches for structures, roadways, and walkways; and
- (3) The design for equestrian trails, plantings, landscape irrigation, landscape lighting, and landscape grading.

This practice shall include the location, arrangement, and design of tangible objects and features as are incidental and necessary to the purposes outlined herein. Nothing herein shall preclude a duly registered landscape architect from planning the development of land areas and elements used thereon or from performing any of the services described in this section in connection with the settings, approaches, or environment for buildings, structures, or facilities; provided that nothing in this chapter shall empower a landscape architect registered under this chapter from practicing or offering to practice architecture or engineering in any of its various recognized branches.

"Professional engineer" means a person who holds oneself out as able to perform, or who does perform, any professional service such as consultation, investigation, evaluation, planning, design, or observation of construction or operation, in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects, wherein the safeguarding of life, health, or property is concerned or involved, when such professional service requires the application of engineering principles and data.

"Surveyor" or "land surveyor" means a person who holds oneself out as able to make, or who does make cadastral surveys of areas for their correct determination and description, either for conveyancing or for the establishment or re-establishment of land boundaries or the plotting of lands and subdivisions thereof."

SECTION 2. Section 464-4, Hawaii Revised Statutes, is amended to read as follows:

"§464-4 Public works[, plans, etc., for and supervision of]. The State and the political subdivisions thereof and the officers thereof, respectively, shall not engage in the construction of any public work involving professional engineering, architecture, or landscape architecture for which the plans, specifications, and estimates have not been made nor supervised by and the construction of which is not [supervised] observed by a professional engineer, architect, or landscape architect duly registered hereunder; provided that nothing in this section shall apply to any public work involving professional engineering, architecture, or landscape architecture wherein the expenditure therefor does not exceed the sum of \$15,000. All land surveys involving property boundaries for public purposes or plans thereof shall be made or supervised by a registered land surveyor."

SECTION 3. Section 464-5, Hawaii Revised Statutes, is amended to read as follows:

"§464-5 Limitation upon application of chapter. Nothing in this chapter shall prevent any person from engaging in engineering, architectural, or landscape architectural work and undertakings upon property owned or exclusively controlled or possessed by that person, or from hiring any person to do [such] the work and undertakings, unless the [same] work and undertakings involve the safety or health of the public, nor shall anything in this chapter prevent any person from engaging in land surveying upon property owned or exclusively controlled or possessed by that person or from hiring any person to do [such] the work, unless the [same] work involves a common boundary.

Nothing in this chapter shall be construed as applying to the business conducted in this State by any agriculturist, horticulturist, tree expert, arborist, forester, garden shop operator, nurseryman or landscape nurseryman, gardener, landscape gardener, landscape contractor, landscape designer, landscape consultant, garden or lawn caretaker, or cultivator of land, as these terms are generally used, except that no [such] person shall use the designation "landscape architect", "landscape architectural", or "landscape architecture" unless registered under the provisions of this chapter.

All engineering work, architectural work, and landscape architectural work in which the public safety or health is involved shall be designed by and the construction [supervised] observed by a duly registered professional engineer, architect, or landscape architect, respectively."

SECTION 4. Section 464-7, Hawaii Revised Statutes, is amended to read as follows:

"§464-7 Powers and duties of board; secretary; records. The board is entitled to the services of the attorney general in connection with its affairs, and may compel the attendance of witnesses upon subpoena, administer oaths, take testimony, and do all other things necessary and proper to carry out this chapter in all matters within its jurisdiction. It shall adopt and have an official seal and make, subject to chapter 91 and with the approval of the governor and the director of commerce and consumer affairs, [bylaws and] rules [and regulations] for the performance of its duties and the carrying on of its business and the enforcement of this chapter. It shall be provided with suitable office quarters by the State and shall hold at least two regular meetings during each year. It shall have a chairman, a vice-chairman, and a secretary, and a quorum shall consist of not less than six members[, one of whom shall be either the chairman or vice-chairman].

All fees and other moneys received by the board shall be deposited by the director of commerce and consumer affairs with the director of finance to the credit of the general fund.

The board shall keep a record of its proceedings and all applicants for registration[,] as engineer, architect, surveyor, or landscape architect, the date of application, name, age, educational[,] and other qualifications, place of business and residence, whether or not an examination was required, and whether or not the applicant was registered and a certificate issued to the applicant and the date of [such] the action. The records shall be prima facie evidence of all matters therein contained.”

SECTION 5. Section 464-8, Hawaii Revised Statutes, is amended to read as follows:

"§464-8 Qualifications for registration. (a) No person shall be eligible for registration as a professional engineer[, architect, land surveyor, or landscape architect] unless:

- (1) The person is the holder of an unexpired certificate of registration issued to the person by any jurisdiction, domestic or foreign, in which the requirements for registration at the time the person was first registered were of a standard satisfactory to the board; provided that [this paragraph shall apply only to professional engineering, architecture, and landscape architecture; and provided further that] if the board is in doubt as to whether the standards were satisfactory, or as to whether the holder was required to fully comply with them, it shall require that the holder successfully pass a written examination, prescribed by the board and designed to test the holder's knowledge, skill, and competency in the profession [for which registration is desired;] of engineering; or
- (2) The person is the holder of a masters degree in engineering from an institution of higher education approved by the board; is a graduate of a school or college approved by the board as of satisfactory standing and has completed an engineering curriculum of four years or more; has had three years of full-time lawful experience in engineering work of a character satisfactory to the board, or part-time experience which the board finds to be the equivalent thereof; and has successfully passed a written examination, prescribed by the board and designed to test the person's knowledge, skill, and competency in the profession of engineering; or
- (3) The person is the holder of a masters degree in engineering from an institution of higher education approved by the board; has had four years of full-time lawful experience in engineering work of a character

satisfactory to the board, or part-time experience which the board finds to be the equivalent thereof; and has successfully passed a written examination, prescribed by the board and designed to test the person's knowledge, skill, and competency in the profession of engineering; or

- [2] (4) The person is a graduate of a school or college approved by the board as of satisfactory standing, and has completed an engineering [or landscape architectural] curriculum of four years or more[, all as the case may be]; [and also] has had four years of full-time lawful experience in engineering [or three years of full-time lawful experience in landscape architecture] work[, as the case may be,] of a character satisfactory to the board, or part-time experience which the board finds to be the equivalent thereof; and has [also] successfully passed a written examination, prescribed by the board and designed to test the person's knowledge, skill, and competency in the profession [for which registration is desired;] of engineering; or
- [3] (5) The person is a graduate of a school or college approved by the board as of satisfactory standing, and has completed an engineering technology or arts and science curriculum of four years or more[, all as the case may be]; [and also] has had eight years of full-time lawful experience in engineering work[, as the case may be,] of a character satisfactory to the board, or part-time experience which the board finds to be the equivalent thereof; and has [also] successfully passed a written examination, prescribed by the board and designed to test the person's knowledge, skill, and competency in the profession of engineering; or
- [4] The person is a graduate of a school or college approved by the board as of satisfactory standing, and has completed a pre-landscape architecture or arts and science curriculum of four years or more; and has also had five years of full-time lawful experience in landscape architectural work of a character satisfactory to the board, and has also successfully passed a professional written examination, prescribed by the board and designed to test the person's knowledge, skill, and competency in the profession of landscape architecture; or]
- [5] (6) The person has had twelve years of full-time lawful experience in engineering [or landscape architecture] work [as the case may be,] of a character satisfactory to the board, or part-time experience which the board finds to be the equivalent thereof; and has [also] successfully passed a written examination, prescribed by the board and designed to test the person's knowledge, skill, and competency in the profession [for which registration is desired; or] of engineering.

(b) No person shall be eligible for registration as a professional architect unless:

- (1) The person is the holder of an unexpired certificate of registration issued to the person by any jurisdiction, domestic or foreign, in which the requirements for registration at the time the person was first registered were of a standard satisfactory to the board; provided that if the board is in doubt as to whether the standards were satisfactory, or as to whether the holder was required to fully comply with them, it shall require that the holder successfully pass a written examination, prescribed by the board and designed to test the holder's knowledge, skill, and competency in the profession of architecture; or
- [6] (A) The person holds a masters degree in architecture from an approved institution of higher education with training and education in the field of architecture adequate to the satisfaction of the board; and has also had one year of full-time lawful experience in architecture work of a

character satisfactory to the board; and has also successfully passed a professional written examination, prescribed by the board and designed to test the person's knowledge, skill, and competency in the profession of architecture; or]

(2) The person is the holder of a masters degree in architecture from an institution of higher education approved by the board; is a graduate of a school or college approved by the board as of satisfactory standing and has completed an architectural curriculum of five years or more; has had two years of full-time lawful experience in architecture work of a character satisfactory to the board; and has successfully passed a professional written examination, prescribed by the board and designed to test the person's knowledge, skill, and competency in the profession of architecture; or

[B] (3) The person [holds a bachelors degree in architecture from] is a graduate of a school or college approved by the board as of satisfactory standing, and has completed an architectural curriculum of five years; [and also] has had [two] three years of full-time lawful experience in architecture work of a character satisfactory to the board; and has [also] successfully passed a professional written examination, prescribed by the board and designed to test the person's knowledge, skill, and competency in the profession of architecture; or

[7] (4) The person is a graduate of a school or college approved by the board as of satisfactory standing and has completed an architectural curriculum of four years or a pre-architecture or arts and science curriculum of four years or more; [and] has [also] had five years of full-time lawful experience in architecture work of a character satisfactory to the board; and has [also] successfully passed a professional written examination, prescribed by the board and designed to test the person's knowledge, skill, and competency in the profession of architecture; or

[8] (5) The person is a graduate of a community college or other technical training school approved by the board as of satisfactory standing, and has completed an architectural technology curriculum of two years or more; [and] has [also] had eight years of full-time lawful experience in architecture work of a character satisfactory to the board; and has [also] successfully passed a professional written examination, prescribed by the board and designed to test the person's knowledge, skill, and competency in the profession of architecture; or

[9] (6) The person has had eleven years of full-time lawful experience in architecture work of a character satisfactory to the board; and has [also] successfully passed a professional written examination, prescribed by the board and designed to test the person's knowledge, skill, and competency in the profession of architecture[; or].

(c) No person shall be eligible for registration as a professional land surveyor unless:

(1) The person is the holder of an unexpired certificate of registration issued to the person by any jurisdiction, domestic or foreign, in which the requirements for registration at the time the person was first registered were of a standard satisfactory to the board; provided that if the board is in doubt as to whether the standards were satisfactory, or as to whether the holder was required to fully comply with them, it shall require that the holder successfully pass a written examination, prescribed by the board and designed to test the holder's knowledge, skill, and competency in the profession of land surveying; or

- [(10)] (2) The person is a graduate of a school or college approved by the board as of satisfactory standing, and has completed a geo-science, civil engineering, or general engineering curriculum of four years or more; [and] has [also] had three years of full-time lawful experience in land surveying of a character satisfactory to the board; and has [also] successfully passed a professional written examination, prescribed by the board and designed to test the person's knowledge, skill, and competency in the profession of land surveying; or
- [(11)] (3) The person is a graduate of a [community] school or college approved by the board as of satisfactory standing, and has completed a civil engineering technology (survey option) curriculum of two years or more[; and] or arts and sciences curriculum of four years or more; has [also] had seven years of full-time lawful experience in land surveying of a character satisfactory to the board; and has [also] successfully passed a professional written examination, prescribed by the board and designed to test the person's knowledge, skill, and competency in the profession of land surveying; or
- [(12)] (4) The person has had eleven years of full-time lawful experience in land surveying of a character satisfactory to the board; and has [also] successfully passed a professional written examination, prescribed by the board and designed to test the person's knowledge, skill, and competency in the profession of land surveying.

(d) No person shall be eligible for registration as a professional landscape architect unless:

- (1) The person is the holder of an unexpired certificate of registration issued to the person by any jurisdiction, domestic or foreign, in which the requirements for registration at the time the person was first registered were of a standard satisfactory to the board; provided that if the board is in doubt as to whether the standards were satisfactory, or as to whether the holder was required to fully comply with them, it shall require that the holder successfully pass a written examination, prescribed by the board and designed to test the holder's knowledge, skill, and competency in the profession of landscape architecture; or
- (2) The person is the holder of a masters degree in landscape architecture from an institution of higher education approved by the board; is a graduate of a school or college approved by the board as of satisfactory standing and has completed a landscape architectural curriculum of four years or more; has had two years of full-time lawful experience in landscape architecture work of a character satisfactory to the board, or part-time experience which the board finds to be the equivalent thereof; and has successfully passed a written examination, prescribed by the board and designed to test the person's knowledge, skill, and competency in the profession of landscape architecture; or
- (3) The person is a graduate of a school or college approved by the board as of satisfactory standing, and has completed a landscape architectural curriculum of four years or more; has had three years of full-time lawful experience in landscape architecture work of a character satisfactory to the board, or part-time experience which the board finds to be the equivalent thereof; and has successfully passed a written examination, prescribed by the board and designed to test the person's knowledge, skill, and competency in the profession of landscape architecture; or

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- (4) The person is a graduate of a school or college approved by the board as of satisfactory standing, and has completed a pre-landscape architecture or arts and science curriculum of four years or more; has had five years of full-time lawful experience in landscape architecture work of a character satisfactory to the board, or part-time experience which the board finds to be the equivalent thereof; and has successfully passed a professional written examination, prescribed by the board and designed to test the person's knowledge, skill, and competency in the profession of landscape architecture; or
- (5) The person has had twelve years of full-time lawful experience in landscape architecture work of a character satisfactory to the board, or part-time experience which the board finds to be the equivalent thereof; and has successfully passed a written examination, prescribed by the board and designed to test the person's knowledge, skill, and competency in the profession of landscape architecture.

In addition to the foregoing requirements, the board may, in its discretion, require additional proof that the applicant is competent to practice professionally, and whenever the board is not fully satisfied from the results of an examination that any applicant is competent to practice professionally, it may give the applicant a further examination or examinations.

No person shall be eligible for registration as a professional engineer, architect, land surveyor, or landscape architect who is not of good character and reputation."

SECTION 6. Section 464-9, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Every certificate of registration expires on April 30 of each even-numbered year following its issuance and becomes invalid after that date unless renewed. The secretary of the board, at least one month in advance of the date of expiration of the certificate of registration, shall mail a notice to every person registered under this section giving the date of expiration and the amount required for the renewal thereof. The fee for renewal and all other fees in this chapter shall be as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91. Certificates of registration which have expired for failure to pay renewal fees on or before the date required in this subsection may be reinstated within one year of the expiration date upon payment of a fee for each renewal certificate. Any person who fails to reinstate the person's certificate of registration within one year of the date of its expiration shall reapply for registration."

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

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

(Approved June 8, 1988.)

ACT 227

H.B. NO. 3533

A Bill for an Act Relating to Petty Cash Funds.

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

SECTION 1. Section 40-84, Hawaii Revised Statutes, is amended to read as follows:

"§40-84 Petty cash funds; regulations. Whenever the head of any state department, board, bureau, commission, or other agency deems it necessary to have a petty cash fund for the proper transaction of the business of [his] the agency, [he shall make] a written application therefor shall be made to the comptroller setting forth the details covering the purposes and uses of and for the fund. The comptroller, before issuing a state warrant for [such] that purpose, shall determine whether or not the business of [such] the agency warrants the establishment of such a fund, and if [he] the comptroller is satisfied that such a fund is necessary, [he] the comptroller shall issue a state warrant to such agency for [such] an amount as [he] the comptroller shall determine, not to exceed[, however,] the sum of [\$25,000.] \$100,000, except that this limitation of [\$25,000] \$100,000 shall not apply to the University of Hawaii and the stadium authority.

The comptroller may prescribe such rules [and regulations] as [he] the comptroller may deem necessary for the proper administration and accountability of these funds."

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

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

(Approved June 8, 1988.)

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H.B. NO. 3562

A Bill for an Act Relating to the Housing Finance and Development Corporation.

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

SECTION 1. Chapter 201E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§201E- Rental housing revolving fund. There is created a rental housing revolving fund. Notwithstanding any law to the contrary, funds appropriated and all moneys received or collected by the corporation for the purposes of providing rental housing shall be deposited into the rental housing revolving fund. Funds may be further deposited into the rental housing revolving fund from the dwelling unit revolving fund established under section 201E-204. The proceeds in the rental housing revolving fund shall be used for the necessary expenses in administering and carrying out a rental housing program, including the development of facilities constructed in conjunction with rental housing projects; provided that priority shall be given to the development and financing of housing projects for the elderly."

SECTION 2. Section 201E-205, Hawaii Revised Statutes, is amended to read as follows:

"[§201E-205] Exemption from general excise taxes. (a) The corporation may certify for exemption from general excise taxes any qualified person or firm involved with a newly constructed or rehabilitated project developed under this chapter or chapter 356[, or section 46-15.1].

[b) In accordance with rules established by the corporation, existing low and moderate income housing projects receiving government assistance under an agreement with a governmental body that regulates rents and operations of the projects may receive an exemption annually upon review and certification by the

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corporation for any qualified period. The corporation shall notify the department of taxation of any such certification provided to existing projects.

(c)] (b) All claims for exemption under this section shall be filed with and certified by the corporation and forwarded to the department of taxation. [Such] Any claim for exemption [as] which is filed and approved, shall not be considered a subsidy for the purpose of this chapter.

(d) For the purpose of this section, "government assistance" means assistance under a low or moderate income housing program from the State or the United States or any of their political subdivisions, agencies, or instrumentalities, corporate or otherwise which is approved by the corporation.]'

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

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

(Approved June 8, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 229

S.B. NO. 2349

A Bill for an Act Relating to Public Employment.

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

SECTION 1. **Findings and purpose.** The legislature finds that a job evaluation study mandated by Act 157, Session Laws of Hawaii 1986, found no evidence of wage discrimination based on sex in the job evaluation practices of the State and counties. In accordance with the provisions of Act 157, no changes in the system are required.

Act 225, Session Laws of Hawaii 1987, adjusted the pay of certain job classes to improve the internal alignment of classes in accordance with the earlier study findings. The Act also mandated the conference of personnel directors to review those adjustments and to recommend to the legislature at the Regular Session of 1988 any further adjustments necessary to complete the activities generated by Act 157. The conference of personnel directors was directed to examine any potentially affected classes but not to consider an "overhaul of the compensation plan nor to mandate any changes which are not clearly required".

The conference of personnel directors, in accordance with these requirements, has conducted an exhaustive review of the potentially affected classes and submitted a report of its findings in accordance with the provisions of Act 225.

The purpose of this Act is to authorize the implementation of the recommendations of the conference of personnel directors, to finalize and complete activities pertaining to the initial pay equity concerns, and to clarify concerns arising about the status of pricing appeals filed pending the study by the conference of personnel directors.

SECTION 2. The following classes shall be increased by one salary range effective July 1, 1988: Control Accounts Bookkeeper I and Control Accounts Bookkeeper II. Comparable classes at the same salary ranges in the city and county of Honolulu shall also be adjusted by one salary range.

In addition, the pay rate of existing employees in these classes shall be adjusted in accordance with rules pertinent to repricing.

SECTION 3. There is hereby appropriated out of the general revenues of the State of Hawaii the sum of \$15,500, or so much thereof as may be necessary for fiscal year 1988-1989, to fund the adjustments authorized in section 2 for state executive branch employees and a sum of \$12,000, or so much thereof as may be necessary for fiscal year 1988-1989, to fund the adjustments authorized in section 2 for city and county of Honolulu employees.

The sum appropriated shall be expended by the director of finance for the purposes of this Act.

SECTION 4. Adjustments provided in section 2 of this Act shall not be considered as part of wage negotiation cost items.

SECTION 5. Act 225, Session Laws of Hawaii 1987, section 6, is amended to read as follows:

“SECTION 6. The examination called for in section 5 shall not include adjustments to classes or series which are deemed properly valued [and/or] or compensated by the job evaluation study directed by Act [156,] 157, Session Laws of Hawaii 1986, or both, nor shall it be construed to require or permit an overhaul of the compensation plan nor to mandate any changes which are not clearly required. However, nothing in this Act shall be construed to deny or restrict a petition for appeal under section 77-4, Hawaii Revised Statutes, by any affected public officer or employee.”

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

SECTION 7. This Act shall take effect upon its approval; provided that section 5 of this Act shall apply to any pay increases or petitions for appeal filed after June 23, 1987. .

(Approved June 8, 1988.)

ACT 230

S.B. NO. 2451

A Bill for an Act Relating to Accidental Injury Leave.

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

SECTION 1. Chapter 79, Hawaii Revised Statutes, is amended by adding one new section to be appropriately designated and to read as follows:

“**§79. Liability of third persons.** When the State or any county pays benefits to or incurs medical expenses on behalf of any of its officers or employees under the provisions of section 79-15 for any injury sustained under circumstances creating in some person or entity other than the State or any county a legal liability to pay damages in respect thereto, the State, any county, the employee, or any public officer may proceed against such third persons and recover all payments made, paid or due under section 79-15. The State, any county, the employee, or any public officer shall have all of the rights and remedies contained in or provided for under section 386-8, Hawaii Revised Statutes.”

SECTION 2. New statutory material is underscored.¹

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

(Approved June 8, 1988.)

Note

1. No underscored material.

ACT 231

S.B. NO. 2848

A Bill for an Act Relating to Permits for State Small Boat Harbors.

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

SECTION 1. Section 266-21.1, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) After June 30, 1980, the department of transportation 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. 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, may, in accordance with the rules adopted by the department pursuant to chapter 91, 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.

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. 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.

Any person owning an interest in a corporation or other business entity possessing a valid commercial permit issued by the department may, in accordance with rules adopted by the department pursuant to chapter 91, transfer any or all stock or other interest to another person without terminating [its] 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 the corporation or business entity has been engaged in the same commercial vessel activity, as defined in section 266-21, for a minimum of one year; and provided further that the seller shall pay the department a business transfer fee as provided by rules adopted by the department pursuant to chapter 91. Any person possessing a commercial permit shall be required to meet minimum revenue standards, as provided by rules adopted by the department pursuant to chapter 91, as a condition of retaining or renewing the commercial permit."

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

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

(Approved June 8, 1988.)

ACT 232

S.B. NO. 3073

A Bill for an Act Relating to Transportation.

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

SECTION 1. The legislature finds that the heavy dependence on the automobile as the primary means of travel has resulted in excessive concentrations of motorists on the major arterials during morning and afternoon peak travel periods. While the traditional approach to addressing this problem has been to increase the capacity of the land transportation system, limits on monetary and natural resources now severely restrict the use of this alternative.

Consequently, it has become necessary for the State to consider alternate means of transportation for commuters from outlying areas into the central business district. One such alternative is the development of a water ferry system to connect the Ewa, East and West Honolulu areas with the central business district in downtown Honolulu.

It is envisioned that the conditions under which the intraisland water ferry system will operate will include the following:

- (1) The system shall include landings at Maunalua Bay, Waikiki, Honolulu Harbor, Honolulu International Airport, Waipahu, Ewa, and West Beach, provided conditions at each site are acceptable;
- (2) The system shall be premised upon transporting commuters during peak hours and utilized for other revenue-generating purposes during nonpeak hours;
- (3) The State shall, for a period not to exceed eight years, share in the cost of operating the water ferry system, which share shall not exceed the annual amount for the first year of revenue service, for the first four years after the start of revenue service, and shall thereafter decrease annually in a straight line to zero after the eighth year; and
- (4) A private entity shall own or lease the ferries used in the system and shall manage, operate, market, and maintain the system, except for the onshore facilities owned by the Department of Transportation.

SECTION 2. Chapter 268, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§268- Private ferry or ferry system; authority to provide. Notwithstanding any other provisions of this chapter, the department, in lieu of establishing the Hawaii State Ferries, an interisland or intraisland ferry or ferry system operated and maintained by the State under the provisions of the chapter, may enter into a contract, lease, or other agreement with any person to provide for a privately operated ferry or ferry system; provided that no contract, lease, or other agreement shall be made except under contract let after public advertisement for sealed tenders, subject to the provisions under chapter 103.”

SECTION 3. The department of transportation shall submit a report to the legislature on the status of the water ferry system no later than twenty days prior to the convening of the Regular Session of 1989.

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SECTION 4. New statutory material is underscored.¹

SECTION 5. This Act shall take effect on July 1, 1988.

(Approved June 8, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 233

S.B. NO. 3076

A Bill for an Act Relating to the Motor Vehicle Industry.

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

SECTION 1. Section 437-17, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Each new motor vehicle dealer receiving a license shall keep in force a bond to the motor vehicle industry licensing board in the penal sum of \$200,000[]; provided that the penal sum shall be \$50,000 for new car dealers who sell less than ten new motor vehicle units a month average on an annual basis. Each used motor vehicle dealer shall give and keep in force a bond to the board in the penal sum of \$100,000; provided that the penal sum shall be \$25,000 for a used car dealer [that] who sells [twenty-five or] less than sixty motor vehicle units a month[.] average on an annual basis. More than one bond may be furnished by the same applicant, provided [that the] they aggregate the full amount [is as] prescribed by this section. If any bond is not (1) executed by a surety company authorized to do business in the State, or (2) secured by a deposit of cash with the board in lieu of surety, then sections 103-35 to 103-37 shall be applicable as nearly as may be to furnishing of such bond and the surety or sureties and the security thereof, with the substitution of the board hereunder for the awarding officer mentioned in sections 103-35 and 103-37 as may be applicable.”

SECTION 2. The Motor Vehicle Industry Licensing Board shall study the appropriateness of the bonding amounts provided in Section 1, as well as the bonding requirement itself, and shall submit a report of its findings and recommendations to the Legislature no later than twenty days prior to the convening of the Regular Session of 1989.

SECTION 3. During the period in which this Act is in effect, dealers who take advantage of the lowered bonding amounts provided in Section 1 shall not collect payments on motor vehicle purchases without delivery of the motor vehicle.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval; provided that the new bonding requirements provided in Section 1 shall be repealed on July 1, 1989 and section 437-17(a) shall be reenacted in the form in which it read immediately prior to the approval of this Act.

(Approved June 8, 1988.)

ACT 234

S.B. NO. 3155

A Bill for an Act Relating to Environmental Quality.

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

SECTION 1. Section 342-34, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) If the federal funds are not immediately available, the director may advance the federal share of the planning and design cost to the county or state agency, subject to the following provisions:

- (1) The director shall enter into a contract with the applicant specifying the conditions of the advance.
- (2) The advances made by the State to the county or state agency are to be reimbursed to the State immediately upon the receipt from the federal government of the advancement funds or within [four years after the advance is made, whichever occurs first.] one year after the completion of project construction.”

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

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

(Approved June 8, 1988.)

ACT 235

S.B. NO. 2024

A Bill for an Act Relating to Ocean Resources.

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

SECTION 1. **Findings.** The legislature finds that:

- (1) The Pacific Ocean and its many resources are of environmental, economic, aesthetic, recreational, social, and historic importance to the people of this State;
- (2) Exploration, development, and production of ocean resources likely to result from both federal agency programs in federal waters of the outer continental shelf and initiatives of private companies within state waters will increase the chance of conflicting demands on ocean resources for food, energy, and minerals, as well as waste disposal and assimilation, and may jeopardize ocean resources and values of importance to this State;
- (3) There are several state agencies with particular regulatory or program interests in the ocean, but no comprehensive program exists to ensure that state interests are protected and promoted both within state waters and beyond;
- (4) The fluid, dynamic nature of the ocean and the migration of many of its living resources beyond state boundaries extend the ocean management interests of this State beyond the territorial sea currently managed by the State pursuant to the federal Submerged Lands Act;

- (5) Existing federal laws, the Coastal Zone Management Act of 1972, the Magnuson Fisheries Management and Conservation Act of 1976, and the Outer Continental Shelf Lands Act of 1978, recognize the interests of coastal states in management of ocean resources in federal waters and provide for state participation in ocean resources management decisions;
- (6) The 1983 proclamation of the two hundred mile United States exclusive economic zone has created an opportunity for all coastal states to more fully exercise and assert their responsibilities pertaining to the protection, conservation, and development of ocean resources under United States jurisdiction;
- (7) The 1985 State of Hawaii ocean management plan, which is being updated, has created an opportunity for all state agencies to more fully exercise and assert their responsibilities pertaining to the protection, conservation, and development of ocean resources under state jurisdiction;
- (8) It is important that the State of Hawaii implement and maintain a program of ocean resources management to promote and ensure effective management of living and nonliving marine resources within state jurisdiction, to ensure effective participation in federal agency planning and management of ocean resources and uses which may affect this State, and to coordinate state agency management of ocean resources with county government management of coastal shorelands and resources;
- (9) While much is known about the ocean, its composition, characteristics, and resources, additional study and research is required to gain information and understanding necessary for effective ocean planning and management; and
- (10) New and innovative technologies are needed to ensure future development of ocean resources in an environmentally responsible manner.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

“CHAPTER OCEAN RESOURCES MANAGEMENT

§ -1 Policy. It is the policy of the State to:

- (1) Exercise an overall conservation ethic in the use of Hawaii's ocean resources;
- (2) Encourage ocean resources development which is environmentally sound and economically beneficial;
- (3) Provide for efficient and coordinated ocean resources and activities management;
- (4) Assert the interests of this State as a partner with federal agencies in the sound management of the ocean resources within the United States exclusive economic zone;
- (5) Promote research, study, and understanding of ocean processes, marine life, and other ocean resources to acquire the scientific inventory information necessary to understand the impacts and relationship of ocean development activities to ocean and coastal resources; and
- (6) Encourage research and development of new, innovative marine technologies for exploration and utilization of ocean resources.

§ -2 Hawaii ocean resources management program; establishment. To assure the conservation and development of ocean resources affecting Hawaii that are consistent with the purposes of this chapter, a coordinated program for the planning of ocean resources and activities management is established. This program shall be known as the Hawaii ocean resources management program. The Hawaii ocean resources management program shall consist of:

- (1) The Hawaii ocean and marine resources council as established in this chapter, any successor to the council, and any cooperative agreements entered into by the council or its successor; and
- (2) The Hawaii ocean resources management plan as prepared and implemented pursuant to this chapter.

§ -3 Definitions. As used in this chapter unless the context requires otherwise:

“Council” means the Hawaii ocean and marine resources council.

“Exclusive economic zone” has the meaning set forth in Presidential Proclamation 5030 issued March 10, 1983, whereby the United States proclaimed jurisdiction from the seaward boundary of the State out to two hundred nautical miles from the baseline from which the breadth of the territorial sea is measured.

“Plan” means the Hawaii ocean resources management plan.

“Program” means the Hawaii ocean resources management plan, background studies and analysis undertaken in the development of the plan, the implementation activities recommended by the plan, and the Hawaii ocean and marine resources council.

“Territorial sea” means the waters and seabed extending seaward from the coastline of each island of the State as provided in the federal Submerged Lands Act including the archipelagic waters.

§ -4 Department of business and economic development; primary coordinating agency. (a) The department of business and economic development is designated the primary agency for coordination of the program.

(b) The department of business and economic development, coordinating with the expertise within the department of land and natural resources, the department of transportation, the University of Hawaii, and the office of state planning shall provide technical, clerical, and other necessary support services for carrying out the purposes of this chapter.

§ -5 Hawaii ocean and marine resources council; establishment. (a) There is established within the department of business and economic development the Hawaii ocean and marine resources council for the purpose of advising and assisting the governor and legislature on matters relating to the use, development, and management of Hawaii’s ocean resources. The council shall be composed of eleven voting members as follows:

- (1) Six shall be voting ex officio members to consist of the chairperson of the board of land and natural resources, the director of state planning, the director of business and economic development, the director of transportation, the director of health, and the president of the University of Hawaii; and
- (2) Five voting members appointed by the governor representing each of the following:
 - (A) Commercial ocean interests which shall include two members from any of the following activities: aquaculture, mariculture, commercial fishing, maritime, recreation/tourism, mineral development, and energy development;

- (B) Recreational ocean interests;
- (C) Environmental interests; and
- (D) Ocean research interests from the public or private sector, such as marine mining, ocean energy, and marine biotechnology.

(b) There shall be only one designated representative selected by each of the six ex officio members. The designee shall be a person with knowledge and experience in matters relating to the development, conservation, or management of ocean resources. The director of business and economic development shall serve as the chairperson of the council. The department of business and economic development shall provide staff services to the council as needed. All members of the council shall serve without compensation and shall be entitled to reimbursement for necessary expenses while attending meetings and while in the discharge of duties and responsibilities of the council.

§ -6 Powers and duties of the council.

The council shall advise and assist the governor and the legislature on matters relating to marine affairs of the State by:

- (1) Serving as a forum for comprehensive ocean policy formulation and public and private sector coordination, and information dissemination;
- (2) Planning, coordinating, and facilitating development and implementation of the Hawaii ocean resources management plan;
- (3) Performing such services and activities as may be required by the governor and legislature;
- (4) Preparing and submitting a report on the implementation of this chapter to the governor and the legislature prior to each regular session; and
- (5) Developing procedures to conduct its business to carry out the purposes of this chapter.

§ -7 State agency responsibilities and cooperation. (a) The provisions of this chapter do not change statutorily and constitutionally mandated responsibilities of the state agencies.

(b) The council may request and shall receive from any department, division, board, bureau, commission, or agency of the State or any political subdivision thereof such assistance and data as it deems necessary or desirable to carry out its powers and duties.

§ -8 Coordination with federal agency programs. To ensure that the Hawaii ocean resources management program is coordinated with federal agency programs for coastal and ocean resources, the council shall invite federal agencies with responsibility for the study and management of ocean resources or regulation of ocean activities to designate a liaison to the council to attend council meetings, respond to council requests for technical and policy information, and review materials prepared by the council.

§ -9 Compatibility with county plans. (a) The program shall be compatible to the maximum extent practicable with acknowledged comprehensive plans of each county.

(b) To ensure that the program is compatible with the comprehensive plans of each county, the council shall consult with county officials, and solicit comments on council activities.

§ -10 Public participation. The council shall involve citizens and interested groups and organizations in the development and implementation of the plan. The council shall:

- (1) Provide citizens, coastal and ocean interest groups, organizations, and ocean resource users:
 - (A) Opportunities for involvement; and
 - (B) Opportunities for comment on issues and topics which should be addressed;
- (2) Conduct appropriate public workshops to solicit ideas, opinions, and facts to be considered in developing and implementing the plan; and
- (3) Distribute the plan to all public libraries statewide and to interested individuals and groups, upon request.

§ -11 Preparation of plan. (a) The council shall prepare and coordinate implementation of a proposed Hawaii ocean resources management plan.

(b) The proposed plan shall be submitted to the legislature prior to the convening of the regular session of 1991.

(c) The council shall send the proposed plan for review and comment to the board or governing body of the agencies and groups represented on the council and to each county.

§ -12 Hawaii ocean resources management plan process. (a) The Hawaii ocean resources management plan shall address ocean issue areas to include overall ocean resources management, conservation and preservation, fisheries, ocean minerals, aquaculture, mariculture, recreation, coastal erosion, harbors, ocean and coastal energy facilities, and waste disposal and accidental spills. In developing the plan, the council shall consider:

- (1) Inventories of the existing state laws and agency rules, authorities, and programs which pertain to ocean resources;
 - (2) Inventories of federal laws, regulations, and agency programs which pertain to ocean resources management within or directly affecting Hawaii's territorial sea and exclusive economic zone;
 - (3) Analyses of state laws, rules, authorities, or programs which conflict with one another, that need to be modified or eliminated, as well as laws, rules, or programs which may need to be enacted in order to provide for coordinated, comprehensive management of ocean resources;
 - (4) Existing management plans developed by state agencies; and
 - (5) Current activities regarding computer and noncomputer maps of existing ocean conditions, uses, and resources of the coastline, territorial sea, and exclusive economic zone.
- (b) The plan shall include:
- (1) Specific recommendations to develop or improve state agency programs to manage ocean resources and activities consistent with this chapter. These recommendations:
 - (A) Shall be the basis for agency or legislative action and shall contain:
 - (i) A brief statement of the issues or need requiring the recommended action;
 - (ii) A description of how the recommendation will address the issues or meet the identified need;
 - (iii) Policies and objectives;
 - (iv) A brief work program describing the actions necessary to carry out the recommendation;
 - (v) A list of state agencies or programs to be affected by the recommendation;

- (vi) An estimate of the time and costs required to carry out the recommendation; and
- (vii) Any change in state law which may be needed;
- (B) Shall address the following as appropriate:
 - (i) Marine water quality, including ocean outfalls from municipal and industrial wastes, toxic and hazardous chemicals, water quality standards and monitoring, and research programs to ensure marine water quality;
 - (ii) Areas within the territorial sea and the exclusive economic zone which should be excluded from energy or non-energy mineral development, or for which special precautions must be taken;
 - (iii) Environmental or other scientific research required to make management decisions about ocean resources with emphasis on the information requirements of the statewide planning goals for ocean and coastal resources in relation to the energy and mineral development activities of the federal government in the exclusive economic zone off Hawaii;
 - (iv) Programs to encourage and facilitate research and development into technologies for the exploration and development of ocean resources;
 - (v) Strategies to promote private investment in Hawaii into responsible research, exploration, and development of ocean resources; and
 - (vi) Recommendations for alternative dispute resolution techniques to resolve conflicts among competing interests; and
- (2) Recommendations for a permanent ocean resources planning and management process, including consideration of:
 - (A) Options for an advisory coordinating body to succeed the council;
 - (B) Advisory committees;
 - (C) The role of the governor, state agencies, federal agencies, counties, citizens, interest groups, and ocean users; and
 - (D) A process for plan update and amendment including integration of new information and adoption and incorporation of plan amendments;
- (3) A summary of state and federal issues of ocean resource management and jurisdiction, including recommendations to the Hawaii congressional delegation for changes in federal law or agency programs;
- (4) Identification of issues which affect county planning programs and an analysis of additional work which may be needed to fully address those issues in the county plans; and
- (5) A summary of council actions to involve citizens of this State and to coordinate with county governments and federal agencies in development of the plan.

§ -13 Distribution of proposed plan copies. The department of business and economic development shall supply copies of the proposed plan to public libraries statewide and shall make copies available by request. The department may charge a small fee to recover the costs of mailing. The department shall supply copies, without charge, to the governor, the legislature, all affected state agencies, and each county government.”

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

years 1988-1989 and 1989-1990, for use by the council to carry out the purposes of this Act, including the hiring of necessary staff. The sum appropriated shall be expended by the department of business and economic development for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 1988.

(Approved June 8, 1988.)

ACT 236

H.B. NO. 3238

A Bill for an Act Relating to a Statewide Trail and Access System.

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

SECTION 1. Act 69, Session Laws of Hawaii 1974, mandated the establishment of a statewide trail and access system, to be called "Na Ala Hele". In 1978, the department of land and natural resources issued a study, entitled Proposals for Planning, Coordination and Development of Hawaii's Statewide Trail & Access System. Implementation of the system, however, has not progressed.

The purpose of this Act is to provide for the implementation of Na Ala Hele.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**"CHAPTER
THE HAWAII STATEWIDE TRAIL AND ACCESS
SYSTEM"**

§ -1 Definitions. For the purpose of this chapter:

"Access" means an easement or way;

- (1) Over which the general public has the right to travel; and
- (2) Which is used by the general public or intended for use by the general public primarily to reach or depart a public beach, shore, park, trail, or other public recreational area.

It includes a lateral easement along the shoreline, coastline, or beach.

"Department" means the department of land and natural resources.

"Trail" means an identifiable linear course used primarily for or used to get a recreational, educational, or inspirational experience. It includes, but is not limited to:

- (1) A corridor trail, which is a designated route, segregated from a highway, providing a continuous linkage between or among major urban areas, fragmented accesses, and major trail areas;
- (2) A segment or connector trail, which is a designated route from one locale to another; and
- (3) A special use trail, which is a designated course for a special activity or function.

§ -2 Establishment of Hawaii statewide trail and access system. There is established the Hawaii statewide trail and access system, to be known as Na Ala Hele. The Hawaii statewide trail and access system shall consist of all trails and

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accesses in the State. The department of land and natural resources shall plan, develop, acquire land or rights for public use of land, construct, and engage in coordination activities to implement the system, in accordance with this chapter.

§ -3 Inventory. (a) The department shall establish, maintain, and amend, as required, an inventory of all trails and accesses in the State, whether wholly or partly on public or private lands and whether or not under the jurisdiction of the department. The inventory shall include:

- (1) Maps and lists of all trails and accesses;
- (2) Name and length of each trail or access;
- (3) The person or agency having management responsibility for each trail or access;
- (4) The predominant transportation mode for each trail or access;
- (5) The development standard, condition, and grade of each trail and access;
- (6) The description of amenities or other features on or in close proximity to each trail or access;
- (7) The status of availability to the general public of each trail or access; and
- (8) Other information for each trail or access deemed necessary or desirable by the department.

(b) The department shall publish and update periodically the inventory in a document, which shall be available to the general public. The department may charge an appropriate fee for the document and any updates.

§ -4 Classification. The department shall classify each trail and access in the inventory according to the following:

- (1) Function;
- (2) Type;
- (3) Theme;
- (4) Actual and desired use intensity; and
- (5) Any other classification deemed necessary or desirable by the department.

§ -5 Identification of proposed, potential, and needed trails and accesses. (a) In addition to the inventory under section -3, the department shall identify and maintain a listing of:

- (1) Proposed trails and accesses which may be opened to the public;
- (2) Potential expansions of trails and accesses;
- (3) Potential or desirable connectors between existing trail systems; and
- (4) Public beach, shore, park, trail, and other recreational areas to which access is unavailable or inadequate.

(b) The listing may be published in the inventory required under section

-3.

§ -6 Regulation of use of trails and accesses. The department, by rule adopted in accordance with chapter 91, may regulate the use of trails and accesses under the department's jurisdiction. Regulation of the use of trails and accesses shall be established for the following purposes:

- (1) To preserve the integrity, condition, naturalness, or beauty of the trails or accesses; or
- (2) To protect the public safety.

§ -7 Examination of legal issues. The department, in consultation with the attorney general, shall examine legal issues relating to trails and accesses. The legal issues examined shall include:

- (1) Theories, options, and doctrines by which trails and accesses may be placed into or retained in public use;
- (2) The validity and feasibility of dedication requirements to obtain public use of trails and accesses;
- (3) The extent of liability exposure of the State, counties, and private landowners when allowing trails and accesses under their respective jurisdictions to be used by the general public; and
- (4) Strategies to reduce or limit the liability exposure of the State, counties, and private landowners in order to promote public use of trails and accesses under their respective jurisdictions which are closed to the general public.

§ -8 Request to acquire rights for public use of additional trails and accesses. The department may request the legislature for appropriations to acquire rights to trails and accesses which are closed to public use or which are necessary to effectuate the statewide trail and access system.

§ -9 Other powers and duties of department. The department:

- (1) May establish signing and design standards for classifications of trails and accesses;
- (2) Shall establish advisory councils to solicit advice and assistance in implementation of the statewide trail and access system. Appointment of members to advisory councils shall be made by the department. If established, members of the advisory councils shall serve part-time and shall not be compensated for official duties performed. Advisory councils may be established on regional, islandwide, countywide, or statewide bases;
- (3) Shall serve as the centralized information agency for matters relating to the statewide trail and access system;
- (4) Shall coordinate its activities under this chapter, including its compilation of the inventory and classifications of trails and accesses, with other public agencies;
- (5) Shall advise and, when able, assist other public agencies in the development, construction, operation, maintenance, and regulation of trails and accesses under their jurisdiction;
- (6) Shall advocate before the legislature, governor, and public agencies the implementation of the statewide trail and access system; and
- (7) Shall submit an annual report to the governor and legislature on activities engaged in under this chapter.

§ -10 Limitation on chapter's provisions. (a) Nothing in this chapter shall be construed as conferring or imposing upon the department any rights, powers, and duties over:

- (1) Lands not under its jurisdiction; or
- (2) The activities of other public agencies;

except if provided by other law or agreement.

(b) The designation as part of the statewide trail and access system of trails and accesses, the use to which the public has no rights, shall not be construed as establishing public rights to use those trails and accesses.

§ -11 Rules. The department may adopt rules in accordance with chapter 91 for the purposes of this chapter."

SECTION 3. Act 69, Session Laws of Hawaii 1974, is repealed.

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SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$664,000, or so much thereof as may be necessary for fiscal year 1988-1989, to carry out the purposes of this Act, including the hiring of necessary staff. The sum appropriated shall be expended by the department of land and natural resources.

SECTION 5. This Act shall take effect on July 1, 1988.

(Approved June 8, 1988.)

ACT 237

H.B. NO. 3137

A Bill for an Act Relating to Public Lands.

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

SECTION 1. Widespread development of farm ownership is one of several stipulated uses for proceeds from the public land trust. The continued growth and development of diversified agriculture throughout the State is an objective of the Hawaii state plan as stated in chapter 226, Hawaii Revised Statutes.

Certain permittees of agricultural lands have occupied such state lands for long periods of time, but because their tenure is on a month-to-month basis, they do not have security in the assurance of continued tenure on the land and are not able to obtain financing for improving their farm because financing is not available due to the lack of long-term tenure. Farmers who depend on the state land for their livelihood are constrained by their uncertain tenure from developing the land and using it more productively.

Section 171-32, Hawaii Revised Statutes, provides that, unless otherwise specifically authorized by chapter 171 or by subsequent legislation, all dispositions of public lands shall be by lease only, disposed of by public auction. If the lands now occupied by certain permittees, who have been on the land for many years, are leased by public auction, there is a high probability that the permittees will not prevail as successful bidders on the land and would be displaced, thereby resulting in the relocation of farmers who may be forced to turn to public agencies for economic assistance.

The purpose of this Act is to authorize the department of land and natural resources to negotiate long-term leases under specific terms, conditions, and restrictions imposed by this Act with certain permittees of agricultural land. The legislature finds that it is in the public interest to assist qualifying permittees who depend on farming the state land for a livelihood, that the purpose of this Act is consistent with objectives of the Hawaii state plan, and further if the offer of assistance provided by this Act is accepted by qualifying permittees, the State would realize greater returns from the long-term disposition of lands now under permit.

It is the express intent of this Act that public lands under permit for purposes other than agricultural use be excluded from the coverage of this Act.

SECTION 2. The department of land and natural resources, hereinafter in this Act referred to as "the department", may negotiate and enter into leases of not less than fifteen years and not more than thirty-five years with any person who:

- (1) As of the effective date of this Act, holds a revocable permit for (a) agricultural, or (b) residential and home gardening purposes, issued in accordance with section 171-55; or

- (2) Has formerly held a state agricultural lease which expired within the last five years preceding the effective date of this Act and has continued to occupy the state land; and
- (3) Does not own agriculturally-zoned land of twenty five acres or more in the State, individually or jointly with spouse, or whose spouse does not own twenty five acres or more of agriculturally-zoned land in the State.

SECTION 3. The lands eligible for lease negotiation under section 2 of this Act are limited to those lands:

- (1) Not needed by any state or county agency for any other public purpose;
- (2) Zoned and used for agricultural purposes; and
- (3) Not used for sugarcane or pineapple cultivation.

SECTION 4. In negotiating and executing a lease as authorized by section 2, the board of land and natural resources shall:

- (1) Require appraisal of the parcel in accordance with section 171-17(b);
- (2) Impose such other lease provisions, restrictions, and conditions provided by sections 171-35, 171-36, and 171-37 as may be required to protect the State's interests;
- (3) Recover from the lessee the costs of surveying and subdividing the parcel incurred by the department; and
- (4) Require the payment of annual lease rent based on fair market value and a premium, computed at twenty-five per cent of annual lease rent, with the premium to be added to the annual lease rent for each year of the lease equal to the number of years that the lessee had occupied the land under revocable permit, as illustrated by the following example: if a lessee had occupied the land under revocable permit for ten continuous years, the twenty-five per cent premium shall be part of the annual lease rent for the first ten years of the lease.

SECTION 5. Within six months from the effective date of this Act, the department shall notify in writing the permittees of lands eligible for lease negotiations under this Act and shall inform the permittees of the terms, conditions, and restrictions provided by this Act. Any permittee may apply for a lease, provided that the application shall be submitted to the department in writing within thirty days from the date of receipt of notification; provided further that the department may require documentary proof of any applicant to determine that the applicant meets eligibility and qualification requirements for a lease as specified by this Act.

SECTION 6. 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 1988-1989, to implement 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. The department of land and natural resources may hire temporary personnel and consultants without regard to the requirements of chapters 76 and 77, and section 78-1 to carry out duties and responsibilities necessary in implementing this Act.

SECTION 7. This Act shall take effect on July 1, 1988, and shall be repealed on July 1, 1991.

(Approved June 8, 1988.)

ACT 238**ACT 238**

S.B. NO. 2744

A Bill for an Act Relating to Public Lands.

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

SECTION 1. Act 5, Session Laws of Hawaii 1987, is amended by amending Section 5 to read as follows:

“SECTION 5. The department of land and natural resources is authorized to subdivide and provide for the creation of a residential subdivision in Kahana Valley for persons who receive long-term leases under the provisions of this Act, which shall be exempt from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to zoning and construction standards for subdivisions, the development and improvement of land, and the construction of units thereon; provided that the department of land and natural resources finds the project is consistent with the findings and purpose of this Act and the project meets minimum requirements of health and safety[; and provided further that no state funds shall be expended in the relocation or construction of these residences authorized under the provisions of this Act].”

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,360,000, or so much thereof as may be necessary for fiscal year 1988-1989, to provide low-interest home construction and mortgage loans of up to \$50,000 each for holders of Kahana Valley State Park residential leases; provided that of the sum appropriated, up to \$160,000 may be used for administrative and other expenses necessary for administering the loan program. The housing finance and development corporation shall administer the loan program, and shall assist the department of land and natural resources in establishing the housing construction program. Guidelines shall be established by the housing finance and development corporation for loan terms, such as construction and mortgage loan interest rates and loan qualification criteria; provided that all lessees who qualify for mortgage loans issued pursuant to this Act shall receive lease terms of not less than the mortgage loan period. Moneys appropriated shall be deposited into the housing finance revolving fund and shall be expended by the housing finance development corporation for the purposes of this Act; provided that upon fulfillment of the purposes of this Act, all unencumbered moneys shall lapse into the state general fund.

SECTION 3. Statutory material to be repealed is bracketed.

SECTION 4. This Act shall take effect on July 1, 1988.

(Approved June 8, 1988.)

ACT 239

S.B. NO. 3401

A Bill for an Act Relating to Land Exchanges.

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

SECTION 1. The legislature finds that the two largest land holders in the State of Hawaii are the military and the state government. The legislature further finds that there may be several parcels of land which, through good faith negotiation, would be appropriate subjects for return to the State of Hawaii by the United States.

The purpose of this Act is to establish a legislative task force to develop a land exchange and return plan between the military and other Federal Agencies and the State of Hawaii.

SECTION 2. There is established a legislative task force which shall consist of a member of the house of representatives and a member of the senate who shall be appointed by the speaker of the house and the president of the senate, respectively; the governor of the State of Hawaii or designated representative; the Commander-In-Chief of the Pacific (CINCPAC) or designated representative; a member of the Hawaii State Association of Counties; and a member of Hawaii's congressional delegation or designated representative. The legislative task force shall establish its own procedures and convene on a regular basis to:

- (1) Study and identify state and military lands which are suitable or potentially suitable for return to the State as surplus or excess property because there is no continuing need for such properties and for which the title could be acquired by:
 - (A) The operation of P.L. 88-233;
 - (B) The cancellation or modification of executive orders, proclamations, leases or licenses;
 - (C) The operation of public benefit discount transfers; and
 - (D) Land exchange;
- (2) Develop a plan or plans by which the return of land may be effected to the mutual benefit of both the State and the military in Hawaii; and
- (3) Make recommendations to the legislature, the United States Department of Defense, and Congress regarding which Hawaiian lands, if any, are suitable for return to the State.

SECTION 3. The legislative task force shall solicit information and viewpoints from the State and its various agencies, the several counties and their subdivisions, the general public, and any other parties with general, vested, or other interest in the disposition of Hawaiian lands. The legislative task force shall also study, evaluate, and take into consideration all previous deeds, cedings, and other prior dispositions which have or may have resulted in current ownership, leasehold, or other kinds of holding of Hawaiian lands which may come under scrutiny for possible return to the State of Hawaii pursuant to the purpose of the legislative task force.

SECTION 4. The legislative task force shall prepare and submit an interim report on its activities to the legislature prior to the convening of the regular session of 1989, and a final report containing its findings and recommendations for transfer of lands to the regular session of 1990, and at the same time to Congress; the United States Department of Defense; the General Services Administration; the Department of Interior; the Governor of the State of Hawaii; and the Office of Hawaiian Affairs. Upon filing of the final report and recommendations, the legislative task force shall be dissolved.

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

(Approved June 8, 1988.)

ACT 240

S.B. NO. 3392

A Bill for an Act Relating to the Hawaii Wing, Civil Air Patrol.

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

SECTION 1. Section 261-6, Hawaii Revised Statutes, is amended to read as follows:

"§261-6 [Grant for] Civil [Air Patrol.] air patrol. (a) Beginning in fiscal year [1986-1987] 1988-1989 and in accordance with chapter 42, the sum of [\$100,000] \$190,600 annually or so much thereof as may be necessary [will] shall be granted from the [airport revenue] general fund to carry on the operations and defray the expenses of the Hawaii [Wing, Civil Air Patrol;] wing, civil air patrol; provided that not less than \$3,000 shall be allocated to each Hawaii based [Civil Air Patrol] civil air patrol unit that meets minimum requirements established by national headquarters[.] and has demonstrated its capability to respond to emergencies within the State.

(b) There shall be expended from the sum granted under this section only [such] those amounts as shall be needed [to repair] for:

- (1) Repair or [replace] replacement of equipment which is not repaired or replaced by the United States Government; [for defraying]
- (2) Defraying expenses incurred in [rescue work or mercy missions;] emergency services operations or mercy or hazard mitigating missions; [for aviation]
- (3) Aviation and [civil defense] emergency services training[;], including supplies required to administer and implement the training;
- (4) Payment of utilities on state-owned properties; [for upkeep,]
- (5) Upkeep, replacement, or purchase of communication equipment (provided that only [such] those sums shall be expended on communication systems] equipment as will be necessary for the procurement or replacement of communication equipment not otherwise obtainable by grant or gift from any other source); [for the purchase]
- (6) Purchase of aviation [fuels] and vehicular fuels, [and] oils , inspection services, maintenance, and overhaul work solely for the use of the [Civil Air Patrol;] Hawaii wing, civil air patrol;
- (7) Travel expenses related to aviation and emergency services training and coordination, not available within the State; and [for the]
- (8) The cost incurred in meeting the accounting and auditing requirements of CAP Manual 173-2 and the [department.] State.

No portion of this grant shall be expended for uniforms or personal equipment of any contractor, employee, or member of the Hawaii wing, [Civil Air Patrol] civil air patrol nor shall any portion be paid for salaries except as [hereinafter] provided[.] in this section.

(c) The [wing] commander, Hawaii wing, civil air patrol, may employ salaried assistants, who shall not be subject to chapters 76 and 77, at a salary of not more than the SR-21 salary range. The assistants shall perform administrative and fiscal duties and [such] other duties as may be required by the wing commander.

(d) All expenditures from the amount [hereinabove] granted[,] in subsection (a) shall be upon vouchers signed by the wing commander and the finance officer of the Hawaii wing, [Civil Air Patrol.] civil air patrol.

(e) A record of expenditures and a current financial statement shall be provided to the State on the last day of business of the months of September, December, March, and June of each fiscal year.

[(e)] (f) In expending the sum granted, the Hawaii wing, [Civil Air Patrol] civil air patrol shall assure further that it will consult [and], cooperate, and coordinate with the [department] departments of transportation and defense to the end that the maximum education and development in aeronautical matters may be afforded and the maximum contribution to [civil defense] emergency operations and preparedness be made.

[(f) The department is specifically authorized to cooperate with the Civil Air Patrol to the end stated in subsection (e) and, in particular, to furnish accommodations, goods, and services in its discretion to the Civil Air Patrol.]

(g) The Hawaii wing, civil air patrol shall comply with chapter 42 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 2. The sums appropriated shall be expended by the department of transportation for the purposes of this Act.

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

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

(Approved June 8, 1988.)

ACT 241

S.B. NO. 1712

A Bill for an Act Relating to Transient Accommodations.

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

SECTION 1. Chapter 237D, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

"§237D- Collection of rental by third party; filing with department; statement required. (a) Every person authorized under an agreement by the owner of transient accommodations located within this State to collect rent on behalf of such owner shall be subject to this section.

(b) Every written rental collection agreement shall have on the first page of the agreement the name, address, social security or federal identification number, and, if available, the general excise tax license and transient accommodations tax registration numbers of the owner of the transient accommodations being rented, the address of the property being rented, and the following statement which shall be set forth in bold print and in ten-point type size:

"HAWAII TRANSIENT ACCOMMODATIONS TAXES MUST BE PAID ON THE GROSS RENTS COLLECTED BY ANY PERSON RENTING TRANSIENT ACCOMMODATIONS IN THE STATE OF HAWAII. A COPY OF THE FIRST PAGE OF THIS AGREEMENT, OR OF FEDERAL INTERNAL REVENUE FORM 1099 STATING THE AMOUNT OF RENTS COLLECTED, SHALL BE FILED WITH THE HAWAII DEPARTMENT OF TAXATION."

Every person entering an oral rental collection agreement shall furnish the department of taxation the information required under this subsection and shall give the owner of the property a copy of the notice required by this subsection. The statement required by this subsection may be combined with the statement required

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under section 237-30.5 by adding in bold print and in ten-point type size to the front of the statement in section 237-30.5 the following:

"HAWAII TRANSIENT ACCOMMODATIONS TAXES AND".

(c) Every person authorized to collect rent for another person shall file a copy of the first page of the rental collection agreement with the department of taxation within ninety days after the effective date of this section or within thirty days after entering into the agreement, or shall file a copy of federal Internal Revenue form 1099, the property owner's social security or federal identification number, and, if available, the general excise tax license and transient accommodations tax registration numbers of the owner of such property being rented with the department of taxation at the same time as such forms must be filed with the Internal Revenue Service for the applicable tax year. The person also shall notify the owner that such information is being furnished and give the owner a copy of the notice required by subsection (b).

(d) If a person complies with the provisions of this section, the person shall be deemed to have complied with section 237-30.5.

§237D- Reconciliation; form requirement. On or before the twentieth day of the fourth month following the close of the taxable year, every person who has become liable for the payment of taxes under this chapter during the preceding taxable year and who has furnished transient accommodations which were exempt, for any portion of the taxable year, from the tax imposed under this chapter, shall file a reconciliation for transient accommodations as prescribed by the director indicating the amount of gross income that was subject to such tax and the amount that was subject to the general excise tax imposed under chapter 237."

SECTION 2. Section 237D-1, Hawaii Revised Statutes, is amended:

1. By adding two new definitions to be appropriately inserted and to read as follows:

"Gross rental" or "gross rental proceeds" means the gross receipts, cash or accrued, of the taxpayer received as compensation for the furnishing of transient accommodations and the value proceeding or accruing from the furnishing of such accommodations without any deductions on account of the cost of property or services sold, the cost of materials used, labor cost, taxes, royalties, interest, discounts, or any other expenses whatsoever. Every taxpayer shall be presumed to be dealing on a cash basis unless the taxpayer proves to the satisfaction of the department of taxation that the taxpayer is dealing on an accrual basis and the taxpayer's books are so kept, or unless the taxpayer employs or is required to employ the accrual basis for the purposes of the tax imposed by chapter 237 for any taxable year in which event the taxpayer shall report the taxpayer's gross income for the purposes of this chapter on the accrual basis for the same period.

The words "gross rental" or "gross rental proceeds" shall not be construed to include the amounts of taxes imposed by chapter 237 on operators of transient accommodations and passed on, collected, and received from the consumer as part of the receipts received as compensation for the furnishing of transient accommodations. Where transient accommodations are furnished through arrangements made by a travel agency or tour packager at noncommissionable negotiated contract rates and the gross income is divided between the operator of transient accommodations on the one hand and the travel agency or tour packager on the other hand, gross rental or gross rental proceeds to the operator means only the respective portion allocated or distributed to the operator, and no more. For purposes of this definition, where the operator maintains a schedule of rates for identifiable groups of individuals, such as kamaainas, upon which the accommodations are leased, let,

or rented, gross rental or gross rental proceeds means the receipts collected and received based upon the scheduled rates and recorded as receipts in its books and records.

"Lease", "let", or "rental" means the leasing or renting of living quarters or sleeping or housekeeping accommodations in hotels, apartment hotels, motels, horizontal property regimes or apartments defined in chapter 514A, cooperative apartments, rooming houses, or other places in which lodgings are regularly furnished to transients for a consideration, without transfer of the title of such property."

2. By amending the definition of "transient accommodations" to read as follows:

"Transient accommodations" [means the furnishing of a room, apartment, suite, or the like which is customarily occupied by a transient for less than one-hundred eighty consecutive days for each letting by a hotel, apartment hotel, motel, horizontal property regime or apartment as defined in chapter 514A, cooperative apartment, rooming house, or other place in which lodgings are regularly furnished to transients for consideration.] mean the furnishing of a room, apartment, suite, or the like which is customarily occupied by a transient for less than one-hundred eighty consecutive days for each letting by a hotel, apartment hotel, motel, horizontal property regime or apartment as defined in chapter 514A, cooperative apartment, or rooming house that provides living quarters, sleeping, or housekeeping accommodations, or other place in which lodgings are regularly furnished to transients for consideration."

3. By deleting the definition of "gross income" or "gross proceeds".

["Gross income" or "gross proceeds" means the same as defined in chapter 237, limited to the gross rental charged and collected for transient accommodations, except that any taxes passed on and collected under chapter 237 shall be deducted in order to determine gross proceeds or gross income for the purposes of this chapter.']

4. By deleting the definition of "transient".

["Transient" means that the accommodations furnished to a person are being furnished to a person who does not have the intention of making such accommodation a permanent place of domicile.']

SECTION 3. Section 237D-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There is levied and shall be assessed and collected each month a tax of five per cent on the gross [income] rental or gross rental proceeds derived from furnishing transient accommodations."

SECTION 4. Section 237D-3, Hawaii Revised Statutes, is amended to read as follows:

"[§237D-3] Exemptions. This chapter shall not apply to:

- (1) Health care facilities including all such facilities enumerated in section 321-11(10).
- (2) School dormitories of a public or private educational institution providing education in grades kindergarten through twelve, or of any institution of higher education.
- (3) Lodging provided by nonprofit corporations or associations for religious, charitable, or educational purposes[.]; provided that this exemption shall apply only to the activities of the religious, charitable, or educational corporation or association as such and not to any rental

- or gross rental the primary purpose of which is to produce income even if the income is used for or in furtherance of the exempt activities of such religious, charitable, or educational corporation or association.
- (4) Living accommodations for persons in the military on permanent duty assignment to Hawaii[.], including the furnishing of transient accommodations to those military personnel who receive temporary lodging allowances while seeking accommodations in Hawaii or while awaiting reassignment to new duty stations outside the State.
- (5) Low-income renters receiving rental subsistence from the state or federal governments and whose rental periods are for durations shorter than sixty days.
- (6) Operators of transient accommodations who furnish accommodations to full-time students enrolled in an institution offering post-secondary education. The director of taxation shall determine what shall be deemed acceptable proof of full-time enrollment. This exemption shall also apply to operators who furnish transient accommodations to students during summer employment.
- (7) Accommodations furnished without charge such as, but not limited to, complimentary accommodations, accommodations furnished to contract personnel such as physicians, golf or tennis professionals, swimming and dancing instructors, and other personnel to whom no salary is paid or to employees who receive room and board as part of their salary or compensation.”

SECTION 5. Section 237D-4, Hawaii Revised Statutes, is amended to read as follows:

“[[§237D-4]] **Certificate of registration.** No later than seven days before January 1, 1987, each operator as a condition precedent to engaging or continuing in the business of furnishing transient accommodations shall register with the director the name and address of each place of business within the State subject to this chapter. The operator shall pay the sum of \$1 for each registration, upon receipt of which the director shall issue a certificate of registration [for each place] 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 operator in whose name it is issued and for the transaction of business at the place designated therein[, and]. 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. Any person commencing business as an operator after January 1, 1987, shall register and obtain a certificate of registration before commencing business. Each certificate of registration shall expire on December 31 next succeeding the date of its issuance. Any person who may lawfully be required by the State, and who is required by this chapter, to register as a condition precedent to engaging or continuing in the business of furnishing transient accommodations subject to taxation under this chapter, who engages or continues in the business without registering in conformity with this chapter, shall be guilty of a misdemeanor. Any director, president, secretary, or treasurer of a corporation who permits, aids, or abets such corporation to engage or continue in business without registering in conformity with this chapter, shall likewise be guilty of a misdemeanor. The penalty for the misdemeanors shall be that prescribed by section [237D-17] 231-34 for individuals, corporations, or officers of corporations, as the case may be, for violation of that section.”

SECTION 6. Section 237D-6, Hawaii Revised Statutes, is amended to read as follows:

"[§237D-6]] Return and payments; remittance; penalties. (a) On or before the last day of each calendar month, every operator taxable under this chapter during the preceding calendar month shall file a sworn return with the director in such form as the director shall prescribe. Sections 237-30, 237-31, and 237-32 shall apply to returns, remittances, and penalties made under this chapter to the same extent as if the sections were set forth specifically in this section.

(b) Notwithstanding subsection (a), the director of taxation, for good cause, may permit a taxpayer to file the taxpayer's return required under this section and make payments thereon:

- (1) On a quarterly basis during the calendar year, the return and payment to be made on or before the last day of the calendar month after the close of each quarter, to wit, on or before April 30, July 31, October 31, and January 31; provided that the director is satisfied that the grant of the permit will not unduly jeopardize the collection of the taxes due thereon and that the taxpayer's total tax liability for the calendar year under this chapter will not exceed \$2,000; or
- (2) On a semiannual basis during the calendar year, the return and payment to be made by or before the last day of the calendar month after the close of each six-month period, to wit on July 31 and January 31; provided that the director is satisfied that the grant of the permit will not unduly jeopardize the collection of the taxes due thereon and that the taxpayer's total tax liability for the calendar year under this chapter will not exceed \$1,000.

The director, for good cause, may permit a taxpayer to make monthly payments based on the taxpayer's estimated quarterly or semiannual liability; provided that the taxpayer files a reconciliation return at the end of each quarter or at the end of each six-month period during the calendar year, as provided in this section.

(c) If a taxpayer filing the taxpayer's return on a quarterly or semiannual basis, as provided in this section, becomes delinquent in either the filing of the taxpayer's return or the payment of the taxes due thereon, or if the liability of a taxpayer, who possesses a permit to file the taxpayer's return and to make payments on a semiannual basis exceeds \$1,000 in transient accommodations taxes during the calendar year or exceeds \$2,000 in transient accommodations taxes during the calendar year if making payments on a quarterly basis, or if the director determines that any such quarterly or semiannual filing of return would unduly jeopardize the proper administration of this chapter, including the assessment or collection of the transient accommodations tax, the director, at any time, may revoke a taxpayer's permit, in which case the taxpayer shall then be required to file the taxpayer's return and make payments thereon as provided in subsection (a).

(d) Section 232-2 does not apply to a monthly return."

SECTION 7. Section 237D-7, Hawaii Revised Statutes, is amended to read as follows:

"[§237D-7]] Annual return. On or before [April 20 in each] the twentieth day of the fourth month following the close of the taxable year, every person who has become liable for the payment of the taxes under this chapter during the preceding tax year shall file a return summarizing that person's liability under this chapter for the year, in such form as the director prescribes. The operator shall transmit with the return a remittance covering the residue of the tax chargeable to the operator, if any, to the office of the appropriate state district tax assessor designated in section 237D-8. The return shall be signed by the taxpayer, if made by an individual, or by the president, vice-president, secretary, or treasurer of a

corporation, if made on behalf of a corporation. If made on behalf of a partnership, firm, society, unincorporated association, group, hui, joint adventure, joint stock company, corporation, trust estate, decedent's estate, trust, or other entity, any individual delegated by the entity shall sign the same on behalf of the taxpayer. If for any reason it is not practicable for the individual taxpayer to sign the return, it may be done by any duly authorized agent. The department, for good cause shown, may extend the time for making the return on the application of any taxpayer and grant such reasonable additional time within which to make the return as the department may deem advisable.

Section 232-2 applies to the annual return, but not to a monthly return."

SECTION 8. Section 237D-8, Hawaii Revised Statutes, is amended to read as follows:

"[[]§237D-8[]] Filing of returns. All monthly, quarterly, semiannual, and annual returns shall be transmitted to the office of the taxation district in which the transient accommodation upon which the tax is imposed is situated[. Where a person is authorized to collect rent on behalf of an owner under an agreement subject to section 237-30.5, such person shall comply with section 237-30.5 with respect to the tax imposed under this chapter.] or to the office of the first taxation district in Honolulu."

SECTION 9. Section 237D-9, Hawaii Revised Statutes, is amended to read as follows:

"[[]§237D-9[]] Assessment of tax upon failure to make return[.]; limitation period; exceptions; extension by agreement. (a) If any operator fails to make a return as required by this chapter, the director shall make an estimate of the tax liability of the operator from any information the director obtains, and according to the estimate so made, assess the taxes, interest, and penalty due the State from the operator, give notice of the assessment to the operator, and make demand upon the operator for payment. The assessment shall be presumed to be correct until and unless, upon an appeal duly taken as provided in section 237D-11, the contrary shall be clearly proved by the person assessed, and the burden of proof upon such appeal shall be upon the person assessed to disprove the correctness of assessment.

(b) After a return is filed under this chapter¹ the director shall cause the return to be examined, and may make such further audits or investigation as the director considers necessary. If the director determines that there is a deficiency with respect to the payment of any tax due under this chapter, the director shall assess the taxes and interest due the State, give notice of the assessment to the persons liable, and make demand upon the persons for payment. [No assessment under this section shall be made after three years from the date the return was due, unless the return was fraudulent.]

(c) Except as otherwise provided by this section, the amount of taxes imposed by this chapter shall be assessed or levied within three years after the annual return was filed, or within three years of the due date prescribed for the filing of the return, whichever is later, and no proceeding in court without assessment for the collection of any such taxes shall be begun after the expiration of the period.

(d) In the case of a false or fraudulent return with intent to evade tax, or of a failure to file the annual return, the tax may be assessed or levied at any time; however, in the case of a return claimed to be false or fraudulent with intent to evade tax, the determination as to the claim must first be made by a judge of the circuit court as provided in section 235-111(b) which shall apply to the tax imposed by this chapter.

(e) Where, before the expiration of the period prescribed in subsection (c), both the department of taxation and the taxpayer have consented in writing to the assessment or levy of the tax after the date fixed by subsection (c), the tax may be assessed or levied at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.”

SECTION 10. Section 237D-10, Hawaii Revised Statutes, is amended to read as follows:

“[§237D-10]] Overpayment; refunds. Upon application by an operator, if the director determines that any tax, interest, or penalty has been paid more than once, or has been erroneously or illegally collected or computed, the tax, interest, or penalty shall be credited by the director on any taxes then due from the operator under this chapter. The director shall refund the balance to the operator or the operator's successors, administrators, executors, or assigns in accordance with section 231-23. [No credit or refund shall be allowed after three years from the date the return was due.] No credit or refund shall be allowed for any tax imposed by this chapter, unless a claim for such credit or refund shall be filed within three years after the annual return was filed, or in any case of payment of tax without the filing of an annual return, within three years after payment of tax, or within three years of the date prescribed for the filing of the annual return, whichever is later. The preceding limitation shall not apply to a credit or refund pursuant to an appeal, provided for in section 237D-11.”

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

“[§237D-12]] Records to be kept; examination; penalties. Every operator shall keep in the English language within the State, and preserve for a period of three years, suitable records of gross rental or gross rental proceeds [and gross income] relating to transient accommodations taxed under this chapter, and such other books, records of account, and invoices as may be required by the department of taxation, and all such books, records, and invoices shall be open for examination at any time by the department or the Multistate Tax Commission pursuant to chapter 255, or the authorized representative thereof. Any person violating this section shall be guilty of a misdemeanor; and any director, president, secretary, or treasurer of a corporation who permits, aids, or abets the corporation to violate this section shall likewise be guilty of a misdemeanor; the penalty for such misdemeanor shall be that prescribed by section 231-34 for individuals, corporations, or officers of corporations, as the case may be, for violation of that section.”

SECTION 12. Section 237D-13, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The department may destroy the monthly, quarterly, or semiannual returns filed pursuant to section 237D-6, or any of them, upon the expiration of three years after the end of the calendar or fiscal year in which the taxes so returned accrued.”

SECTION 13. Statutory material to be repealed is bracketed. New statutory material is underscored.²

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

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(Approved June 9, 1988.)

Notes

1. Prior to amendment, “,” appeared here.
2. Edited pursuant to HRS §23G-16.5.

ACT 242

S.B. NO. 2268

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

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

SECTION 1. Section 88-84, Hawaii Revised Statutes, is amended to read as follows:

“§88-84 Ordinary death benefit. Upon the receipt of proper proofs of a member's death in service, there shall be paid to the member's beneficiary, otherwise to the member's estate, an ordinary death benefit consisting of:

- (1) The member's accumulated contributions and if no pension is payable under the provisions of section 88-85, in addition thereto,
- (2) The member's contributions to the post retirement fund, and
- (3) An amount equal to fifty per cent of the compensation earned by the member during the year immediately preceding the member's death if the member had at least one year but not more than ten full years of credited service, which amount shall increase by five per cent of such compensation for each full year of service in excess of ten years, to a maximum of one hundred per cent of such compensation; provided that if the member had at least one year of credited service, the amount, together with the member's accumulated contributions shall not be less than one hundred per cent of the compensation.

If the member had ten or more years of credited service but was ineligible for service retirement at the time of the member's death in service, and the death occurred after June 30, 1988, the member's designated beneficiary may elect to receive in lieu of any other payment provided in this section, the allowance which would have been payable to the beneficiary under option 3 of section 88-83 and computed on the basis of section 88-76.

If the member was eligible for service retirement at the time of the member's death in service, and the death occurred after March 1, 1987, the member's designated beneficiary, may elect to receive in lieu of any other payments provided in this section, the allowance which would have been payable if the member had retired the day prior to death and had elected to receive the member's retirement allowance under option 2 of section 88-83.”

SECTION 2. Section 88-21, Hawaii Revised Statutes, is amended by amending the definition of “sewer worker” to read as follows:

“ “Sewer worker”: an employee of any county who is employed in any of the following classifications: (1) sewer maintenance helper[,] or wastewater collection system helper, (2) sewer maintenance repairer[,] or wastewater collection system repairer, (3) sewer maintenance supervisor I and II[,] or wastewater collection system supervisor I and II, (4) gas detector, (5) gas detector helper, (6) gas [detector] detection supervisor, (7) cesspool worker, (8) cesspool pumping equipment operator I, (9) cesspool pumping equipment operator II, (10) cesspool pumping supervisor, or in any combination of these classifications.”

SECTION 3. Section 88-281, Hawaii Revised Statutes, is amended to read as follows:

"[§88-281[]] Eligibility for retirement allowance. (a) A member who has ten years of credited service and has attained age sixty-two, or a member with thirty years credited service who has attained the age of fifty-five, shall become eligible to receive a normal retirement allowance after the member has terminated service.

(b) If a member has at least twenty-five years of credited service as a sewer worker of which the last five or more years prior to retirement is credited in such a capacity, then the sewer worker shall be eligible to receive a normal retirement benefit unreduced for age.

[(b)] (c) A member who has twenty years of credited service and has attained age fifty-five shall be eligible to receive an early retirement allowance after the member has terminated service.

[(c)] (d) A member who has ten years of credited service and terminates service prior to attaining age sixty-two shall have a vested right and shall be eligible to apply for a normal retirement allowance payable beginning with the month when the member has attained age sixty-five.

[(d)] (e) A member may retire upon the written application to the board specifying the desired date of retirement which shall be not less than thirty days nor more than ninety days subsequent to the date of filing. If the member dies after the date of filing the application to retire but prior to the effective date of retirement, the member's designated beneficiary may receive the member's retirement benefits which shall be computed as though the member died on the effective date of retirement under the mode of retirement selected."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 1988.

(Approved June 9, 1988.)

ACT 243

S.B. NO. 118

A Bill for an Act Relating to the Establishment of a Juvenile Justice Information System.

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 \$650,000, or so much thereof as may be necessary for fiscal year 1988-1989, for the development of a juvenile justice information system.

SECTION 2. The sum appropriated shall be expended by the judiciary for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 1988.

(Approved June 9, 1988.)

ACT 244

ACT 244

S.B. NO. 2030

A Bill for an Act Relating to State Government.

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

SECTION 1. The purpose of this Act is to repeal certain obsolete provisions of the Hawaii Revised Statutes which were enacted for the purpose of effectuating the transfer of certain public health, and public school facilities, functions, and programs to the State from the several counties. The legislature finds that the transfer of functions was completed many years ago, and that these provisions are no longer needed.

SECTION 2. Section 27-12, Hawaii Revised Statutes, is repealed.

SECTION 3. Section 27-13, Hawaii Revised Statutes, is repealed.

SECTION 4. Section 27-15, Hawaii Revised Statutes, is repealed.

SECTION 5. Section 27-21.2, Hawaii Revised Statutes, is repealed.

SECTION 6. Section 27-21.3, Hawaii Revised Statutes, is repealed.

SECTION 7. Section 27-21.5, Hawaii Revised Statutes, is repealed.

SECTION 8. Part VI of chapter 27, Hawaii Revised Statutes, is repealed.

SECTION 9. Statutory material to be repealed is bracketed.¹

SECTION 10. This Act shall take effect upon its approval.

(Approved June 9, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 245

S.B. NO. 2172

A Bill for an Act Relating to Kaula.

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

SECTION 1. Section 61-1, Hawaii Revised Statutes, is amended to read as follows:

“§61-1 County boundaries. There shall be four counties in the State, exclusive of the city and county of Honolulu:

- (1) Hawaii. The island of Hawaii and all other islands lying within three nautical miles of the shores thereof, and the waters adjacent thereto, shall be the county of Hawaii, with its county seat at Hilo.
- (2) Maui. The islands of Maui, Molokai, Lanai, and Kahoolawe and all other islands lying within three nautical miles of the shores thereof, and the waters adjacent thereto, except that portion of the island of Molokai known as Kalaupapa, Kalawao, and Waikolu and commonly

- known and designated as the Kalaupapa Settlement, shall be the county of Maui, with its county seat at Wailuku.
- (3) Kauai. The islands of Kauai [and], Niihau, Kaula and all other islands lying within three nautical miles of the shores thereof, and the waters adjacent thereto, shall be the county of Kauai, with its county seat at Lihue.
- (4) Kalawao. All that portion of the island of Molokai known as Kalau-papa, Kalawao, and Waikolu, and commonly known or designated as the Kalaupapa Settlement, shall not be or form a portion of the county of Maui, but is constituted a county in itself, and as such shall have only the powers especially conferred and given by sections 326-34 to 326-38 and shall be known as the county of Kalawao and, except as provided in those sections, none of the provisions of this chapter or any other chapter relating to counties shall be deemed to refer to or shall be applicable to the county of Kalawao. The term "county" as used in chapters 61 and 62 includes only the counties of Hawaii, Kauai, and Maui."

SECTION 2. Section 4-1, Hawaii Revised Statutes, is amended to read as follows:

"§4-1 Districts, generally. For election, taxation, education, city, county, and all other purposes, the State shall be divided into the following districts:

- (1) The island and county of Hawaii shall be divided into nine districts as follows:
- (A) Puna, to be styled the Puna district;
 - (B) From the Hakalau stream to the boundary of South Hilo and Puna, to be styled the South Hilo district;
 - (C) From the boundary of Hamakua and North Hilo to the Hakalau stream, to be styled the North Hilo district;
 - (D) Hamakua, to be styled the Hamakua district;
 - (E) North Kohala, to be styled the North Kohala district;
 - (F) South Kohala, to be styled the South Kohala district;
 - (G) North Kona, to be styled the North Kona district;
 - (H) South Kona, to be styled the South Kona district;
 - (I) Kau, to be styled the Kau district.
- (2) The islands of Maui, Molokai, Lanai and Kahoolawe and counties of Maui and Kalawao shall be divided into seven districts as follows:
- (A) Kahikinui, Kaupo, Kipahulu, Hana and Koolau, to be styled the Hana district;
 - (B) Hamakualoa, Hamakuapoko, portion of Kula, and Honuaua, the western boundary being a line starting from the sea at Kapukaulua on the boundary between the ahupuaas of Haliimaile and Wailuku, thence running inland following the boundary to the mauka side of the Lowrie ditch, thence following the mauka side of the ditch and its projected extension to the Waiaako gulch which is the boundary between the ahupuaas of Pulehunui and Waiaako, thence down along the boundary to the mauka boundary of the Waiaako Homesteads (makai section), thence along the boundary to the ahupuaa of Kaonoulu, thence across the ahupuaa of Kaonoulu to the mauka boundary of the Waiohuli-Keokea Beach Homesteads, thence along the boundary to the mauka boundary of the Kamaole Homesteads, thence along the boundary and the extension thereof to the north boundary of the ahupuaa of Paeahu,

- thence along the boundary to the sea, and including the island of Kahoolawe, to be styled the Makawao district;
- (C) All that portion of central Maui lying east of a line along the boundary of the ahupuaas of Kahakuloa and Honokohau to the peak of Eke crater, thence along the ridge of mountains and down the bottom of Manawainui gulch to the sea, and west of the boundary of Makawao district, to be styled Wailuku district;
- (D) All that portion of Maui lying west of Wailuku district to be styled the Lahaina district;
- (E) The island of Molokai, except that portion of the island known as Kalaupapa, Kalawao and Waikolu and commonly known or designated as the Settlement for Hansen's disease sufferers, to be styled the Molokai district;
- (F) All that portion of the island of Molokai known as Kalaupapa, Kalawao and Waikolu forming the county of Kalawao, to be styled the Kalawao district;
- (G) The island of Lanai, to be styled the Lanai district.
- (3) The island of Oahu shall be divided into seven districts as follows:
- (A) From Makapuu Head in Maunalua to Moanalua inclusive, and the islands not included in any other district, to be styled the Honolulu district;
- (B) Ewa, to be styled the Ewa district;
- (C) Waianae excluding Waianae Uka, to be styled the Waianae district;
- (D) From Kaena point to and including the ahupuaa of Waimea excluding Wahiawa, hereinafter described, to be styled the Waialua district;
- (E) From Waimea to Lae o ka Oio, to be styled the Koolauloa district;
- (F) From Lae o ka Oio to Makapuu Head in Waimanalo, to be styled the Koolaupoko district;
- (G) Wahiawa and Waianae Uka lying between Ewa and Waialua districts and more particularly described in the following manner: Beginning at Puu Kaaumakua in the Koolau range and running to and along the south boundary of Waianae Uka (which is also the south boundary of Schofield Barracks Military Reservation) to Puu Hapapa in the Waianae range; thence continuing along Schofield Barracks Military Reservation northerly along the Waianae range to Puu Kaala, easterly along Mokuleia down ridge to Puu Pane, continuing to Maili Trig. station, and down ridge to Haleauau stream and down Haleauau stream to Kaukonahua gulch, and easterly along the gulch to the west boundary of the ahupuaa of Wahiawa; thence leaving Schofield Barracks Military Reservation and following up and along the west and north boundaries of the ahupuaa of Wahiawa to the Koolau range; thence along the Koolau range to the beginning; to be styled the Wahiawa district.
- (4) The islands of Kauai [and], Niihau, Kaula, and county of Kauai, shall be divided into five districts as follows:
- (A) From Puanaaiea Point to the ili of Eleele, including the [island] islands of Niihau[,] and Kaula, to be styled the Waimea district;
- (B) From and including the ili of Eleele to and including Mahaulepu, to be styled the Koloa district;

- (C) From and including Kipu to the northerly bank of the north fork and the main Wailua river, to be styled the Lihue district;
- (D) From the northerly bank of the north fork and the main Wailua river to Kealaakaiole, to be styled the Kawaihau district;
- (E) From and including Kealaakaiole to Puanaaiea Point, to be styled the Hanalei district.”

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

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

(Approved June 9, 1988.)

ACT 246

S.B. NO. 2362

A Bill for an Act Relating to Alternate Energy.

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

SECTION 1. The legislature finds and declares that section 269-27.2, Hawaii Revised Statutes, is intended to encourage the development and use of nonfossil fuel sources of electric energy and to provide for the public utilities commission to determine the just and reasonable rate for the nonfossil fuel generated electricity. The recovery of payments made to nonfossil fuel producers by an electric public utility will encourage the public utility to utilize the nonfossil fuel sources.

SECTION 2. Section 269-27.2, Hawaii Revised Statutes, is amended to read as follows:

“§269-27.2 Utilization of electricity generated from nonfossil fuels. (a)

The public utilities commission shall investigate and determine the extent to which electricity generated from nonfossil fuel sources is available to public utilities [which] that supply electricity to the public, which electricity is in excess of that utilized or otherwise needed by the producers for their internal uses and which [such] the producers are willing to make available to [such] the electric public utilities.

(b) The public utilities commission may direct public utilities [which] that supply electricity to the public to arrange for the acquisition of and to acquire [such] electricity generated from nonfossil fuel sources as is available from and which the producers of same are willing and able to make available to [such] the public utilities, and to employ and dispatch [such] the nonfossil fuel generated electricity in a manner consistent with the availability thereof to maximize the reduction in consumption of fossil fuels in the generation of electricity to be provided to the public.

(c) The rate payable by the public utility to the producer for [such] the nonfossil fuel generated electricity supplied to the public utility shall be as agreed between the public utility and the supplier and as approved by the public utilities commission; provided that in the event the public utility and the supplier fail to reach an agreement for [such] a rate, [such] the rate shall be as prescribed by the public utilities commission according to the powers and procedures provided in this chapter.

In the exercise of its authority to determine the just and reasonable rate for the nonfossil fuel generated electricity supplied to the public utility by the producer,

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the commission shall establish that the rate for purchase of electricity by a public utility shall not be less than one hundred per cent of the cost avoided by the utility when the utility purchases the electrical energy rather than producing the electrical energy. In determining the amount of the payment in relation to avoided cost, as that cost is or shall later be defined in the rules of the commission, the commission shall consider, on a generic basis, the minimum floor a utility should pay, giving consideration not only to the near-term adverse consequences to the ultimate consumers of utility provided electricity, but also to the long term desirable goal of encouraging, to the greatest extent practicable, the development of alternative sources of energy.

Nothing in this subsection shall affect existing contracts between public utilities and suppliers of nonfossil fuel generated electricity.

(d) Upon application of a public utility that supplies electricity to the public, and notification of its customers, the commission, after an evidentiary hearing, may allow payments made by the public utility to nonfossil fuel producers for firm capacity and related revenue taxes to be recovered by the public utility through an interim increase in rates until the effective date of the rate change approved by the commission's final decision in the public utility's next general rate proceeding under section 269-16, notwithstanding any requirements to the contrary of any other provision in this chapter or in the commission's rules or practices; provided the amount recovered by the utility and the amount of increase in rates due to the payments for firm capacity and related revenue taxes to be charged to the consumers of the electricity are found by the commission to be:

- (1) Just and reasonable;
- (2) Not unduly prejudicial to the customers of the public utility;
- (3) Promotional of Hawaii's long-term objective of energy self-sufficiency;
- (4) Encouraging to the maintenance or development of nonfossil fueled sources of electrical energy; and
- (5) In the overall best interest of the general public.

The evidentiary hearing provided for in this subsection shall be conducted expeditiously and shall be limited to evidence related to the above findings. Notwithstanding section 269-16, no public hearing shall be required, except as the commission in its discretion may require."

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

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

(Approved June 9, 1988.)

ACT 247

S.B. NO. 2784

A Bill for an Act Relating to Contractors.

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

SECTION 1. Section 444-9.2, Hawaii Revised Statutes, is amended to read as follows:

"**§444-9.2 Advertising.** (a) It is a misdemeanor for any person, including a person who is exempt by section 444-2 from this chapter, to advertise with or without any limiting qualifications as a contractor unless such person holds a valid license under this chapter [in the classification so] for the goods and services

advertised. "Advertise" as used in this section includes, but is not limited to, the issuance of any card, sign, or device to any person[,]; the causing, permitting, or allowing of any sign or marking on or in any building, vehicle or structure[, or]; advertising in any newspaper or magazine[,];any listing or advertising [other than in-column listings] in any directory under a classification [of contractor,] or heading that includes the word "contractor"; or commercials broadcast by airwave transmission[, with or without any limiting qualifications].

(b) A contractor may advertise in print or broadcast medium, as defined in subsection (a) only if the contractor includes in the advertisement or listing the contractor's applicable and current license number, and provides proof of the number's validity to the publisher or producer of the advertising medium. The publisher or producer of a print or broadcast advertising medium shall refuse to publish or broadcast an advertisement or listing for a contractor who does not [provide proof of current license registration and who does not include a currently valid license number in the advertisement] comply with the provisions of this subsection. A publisher or producer who obtains a signed statement from the contractor which states that the contractor has read the text of the advertisement or listing, has an applicable and current contractors license for the goods and services advertised, has included all applicable and current license numbers in the advertisement or listing, and is aware of civil and criminal penalties for advertising as a contractor without a valid license, shall be entitled to a rebuttable presumption of compliance with this subsection.

(c) Upon entry of either a final order of the contractors license board pursuant to chapter 91 or a judgment by a court of competent jurisdiction finding that a contractor has advertised in violation of either section 444-9 or 444-9.2(a), the public utility furnishing telephone service to the contractor shall disconnect the telephone number contained in the advertisement or listing.

[c)] (d) The publisher or producer of a print or broadcast advertising medium shall not be liable in any suit, action, or claim arising from its refusal to list or accept advertisements pursuant to subsection (b). Good faith compliance by a public utility with subsection (c) is a complete defense to any civil or criminal action brought against it arising from the termination of telephone service."

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

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

(Approved June 9, 1988.)

ACT 248

S.B. NO. 2882

A Bill for an Act Relating to Solid Waste Management and Recycling Opportunity.

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 1988-1989, for a study of Hawaii's waste streams, which shall be conducted by the office of the legislative auditor and shall include the following: (1) an assessment of availability of state, national, and foreign markets for recycled materials; (2) an assessment of other states' recycling programs; (3) an assessment of the economic viability of a recycling program in Hawaii, and if viable, a draft of recommended legislation; and (4) an assessment of possible ways to encourage

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service stations to participate in collection programs in order to protect the environment from used oil. The office of the legislative auditor shall work with the department of health and the various counties, and when completed, shall submit its findings and recommendations, including drafts of recommended legislation, to the legislature.

SECTION 2. The sum appropriated shall be expended by the office of the legislative auditor for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 1988.

(Approved June 9, 1988.)

ACT 249

S.B. NO. 3217

A Bill for an Act Relating to Health.

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

SECTION 1. Chapter 342, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART PENALTIES"

§342- Negligent violations. Any person who:

- (1) Negligently violates part III of this chapter or any rule adopted by the department pursuant to part III of this chapter, or any permit condition or limitation implementing part III of this chapter in a permit issued under this chapter or any requirement imposed in a pretreatment program under this chapter or in a permit issued under this chapter; or
- (2) Negligently introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable federal, state, or local requirements or permits, which causes such treatment works to violate any effluent limitation or condition in any permit issued to the treatment works under this chapter;

shall be punished by a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than one year, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this section, punishment shall be by a fine of not more than \$50,000 per day of violation, or by imprisonment of not more than two years, or by both.

§342- Knowing violations. Any person who:

- (1) Knowingly violates part III of this chapter or any rule adopted by the department pursuant to part III of this chapter, or any permit condition or limitation implementing part III of this chapter in a permit issued under this chapter or any requirement imposed in a pretreatment program or in a permit issued under this chapter; or
- (2) Knowingly introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable

federal, state, or local requirements or permits, which causes such treatment works to violate any effluent limitation or condition in a permit issued to the treatment works under this chapter; shall be punished by a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than three years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this section, punishment shall be by a fine of not more than \$100,000 per day of violation, or by imprisonment of not more than six years, or by both.

§342- Knowing endangerment. (a) Any person who knowingly violates part III of this chapter or any rule adopted by the department pursuant to part III of this chapter, or any permit condition or limitation implementing part III of this chapter or in a permit issued under this chapter, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment of not more than 15 years, or both.

(b) A person which is an organization, upon conviction of violating this section, shall be subject to a fine of not more than \$1,000,000. If a conviction of a person is for a violation committed after a first conviction of such person under this section, the maximum punishment shall be doubled with respect to both fine and imprisonment.

(c) For the purpose of this section, in determining whether a defendant who is an individual knew that his conduct placed another person in imminent danger of death or serious bodily injury:

- (1) The person is responsible only for actual awareness or actual belief that he possessed; and
 - (2) Knowledge possessed by a person other than the defendant but not by the defendant himself may not be attributed to the defendant; except that in proving the defendant's possession of actual knowledge, circumstantial evidence may be used, including evidence that the defendant took affirmative steps to shield himself from relevant information.
- (d) It is an affirmative defense to prosecution that the conduct charged was consented to by the person endangered and that the danger and conduct charged were reasonably foreseeable hazards of:

- (1) An occupation, a business, or a profession; or
- (2) Medical treatment or medical or scientific experimentation conducted by professionally approved methods and such other person had been made aware of the risks involved prior to giving consent; and such defense may be established under this section by a preponderance of the evidence.

(e) The term "organization" means a legal entity, other than a government, established or organized for any purpose, and such terms includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons.

(f) The term "serious bodily injury" means bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

§342- False statements. Any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained under part III of this chapter or who knowingly falsifies, tampers with, or renders inaccurate any mon-

itoring device or method required to be maintained under part III of this chapter, shall upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than two years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this section, punishment shall be by a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than four years, or by both.

§342- Treatment of single operational upset. For purposes of this part, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

§342- Responsible corporate officer as "person". For the purpose of this part, the term "person" means, in addition to the definition contained in section 342-1, any responsible corporate officer.

§342- Hazardous substance defined. For the purpose of this part, the term "hazardous substance" means:

- (1) Any substance designated pursuant to section 311(b)(2)(A) of the Federal Water Pollution Control Act, as amended (FWPCA);
- (2) Any element, compound, mixture, solution, or substance designated pursuant to section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980;
- (3) Any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Act of Congress);
- (4) Any toxic pollutant listed under section 307(a) of the FWPCA; and
- (5) Any imminently hazardous chemical substance or mixture with respect to which the administrator has taken action pursuant to section 7 of the Toxic Substances Control Act."

SECTION 2. Section 342-31, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

""Industrial user" means a source of pollutants into a publicly owned treatment works from any nondomestic source regulated under section 307(b), (c) or (d) of the Federal Water Pollution Control Act."

SECTION 3. Section 342-33, Hawaii Revised Statutes, is amended by amending subsection (c) as follows:

"(c) No person, including any industrial user, shall discharge any pollutant or effluent into a publicly owned treatment works or sewerage system in violation of:

- (1) A pretreatment standard[,] established by the department or the publicly owned treatment works; or
- (2) A pretreatment condition in a permit[.] issued by the department or a publicly owned treatment works."

SECTION 4. Section 342-11, Hawaii Revised Statutes, is amended to read as follows:

"§342-11 Penalties. (a) Violation of the vehicular noise control and vehicular smoke emission rules adopted by the department pursuant to this chapter

shall constitute a violation as defined in section 701-107 and shall be enforceable by police officers. The fine for this violation shall be not less than \$25 nor more than \$2,500 for each separate offense. Each day of violation shall constitute a separate offense.

(b) Violation of the open burning control rules adopted by the department pursuant to this chapter shall constitute a violation as defined in section 701-107 and shall be enforceable by police officers. The fine for this violation shall not exceed \$10,000 for each separate offense. Each day of violation shall constitute a separate offense.

(c) Any person who violates this chapter or any rule, other than vehicular noise control, vehicular smoke emission control, and open burning control rules, shall be fined not more than \$10,000 for each separate offense. Each day of violation shall constitute a separate offense. Any action taken to impose or collect the penalty provided for in this subsection, other than the penalty imposed for violations of vehicular noise control, vehicular smoke emission, and open burning rules, shall be considered a civil action.

(d) Any person who knowingly (1) transports any hazardous waste to a storage, treatment, or disposal facility and who does not have a permit under section 342-53(b) to treat, store, or dispose of that particular hazardous waste; (2) treats, stores, or disposes of hazardous waste without first having a permit under section 342-53(b); or (3) makes a false statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained, or used for purposes of compliance with chapter 342, part V, shall be subject to criminal penalties of not more than \$25,000 for each day of violation or to imprisonment not to exceed one year, or both. If the conviction, is for a violation committed after a first conviction criminal punishment shall be by a fine of not more than \$50,000 for each day of violation, or by imprisonment for not more than two years, or both.

[e] (e) Any person who wilfully or negligently violates part III of this chapter or any rule adopted by the department pursuant to part III shall be punished by a fine of not less than \$25,000 nor more than \$100,000, per day of violation or by imprisonment for not more than five years, or both.

(f) [e] (e) Any person who wilfully or negligently violates part VII of this chapter or any rule adopted by the department pursuant to part VII shall be punished by a fine of not more than \$5,000 for each violation or imprisonment for not more than one year, or both. If the conviction is for a violation committed after a first conviction, the violator shall be subject to a fine of not more than \$10,000 for each violation, or by imprisonment for not more than two years, or both.

[g] (f) Any person who denies, obstructs, or hampers the entrance and inspection by any duly authorized officer or employee of the department of any building, place, or vehicle which the officer or employee is authorized to enter and inspect shall be fined not more than \$500. Any action taken to impose or collect the penalty provided for in this subsection shall be considered a civil action."

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

SECTION 6. This Act shall take effect upon its approval.

(Approved June 9, 1988.)

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H.B. NO. 416

A Bill for an Act Relating to Public Utilities.

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

SECTION 1. The purpose of this Act is to specify the parties to the proceeding when a case before the Hawaii Public Utilities Commission is appealed to the Hawaii Supreme Court.

SECTION 2. Section 269-16, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

"(f) From every order made by the commission under the provisions of this chapter which is final, or if preliminary, is of the nature defined by section 91-14(a), an appeal shall lie to the supreme court subject to chapter 602 only by a person aggrieved in the contested case hearing provided for under this section in the manner and within the time provided by chapter 602, and by the rules of court. The commission shall be a party to all matters from which an order of the commission is appealed, and the commission shall file the appropriate responsive briefs or pleadings defending all such orders. The designation of the commission as a party in appellate proceedings in no way limits the participation of persons otherwise qualified to be parties on appeal. The appeal shall not of itself stay the operation of the order appealed from, but the court may stay the order after a hearing upon a motion therefor, and may impose such conditions as it may deem proper as to giving a bond and keeping the necessary accounts or otherwise in order to secure a restitution of the excess charges, if any, made during the pendency of the appeal in case the order appealed from should be sustained, reversed, or modified in whole or in part."

SECTION 3. New statutory material is underscored.

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

(Approved June 9, 1988.)

ACT 251

H.B. NO. 2036

A Bill for an Act Relating to the Motor Vehicle Rental Industry.

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

SECTION 1. The purpose of this Act is to amend the Hawaii Revised Statutes by adding a new chapter to provide for regulation of the current rental practices of motor vehicle rental companies in the rental or lease of rental motor vehicles to the public by providing safeguards to the public regarding the sale and advertisement of collision damage waivers; deposits, charges or payments for damages to rental motor vehicles; notice of seat belt, child passenger restraint and drunk driving laws; and unfair or deceptive trade practices in the motor vehicle rental industry. Existing laws have proven to be ineffective in reducing the potential and existing harm to consumers resulting from current industry practices.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

“CHAPTER MOTOR VEHICLE RENTAL INDUSTRY”

§ -1 Short title. This chapter shall be known and may be cited as the “Motor Vehicle Rental Industry Act.”

§ -2 Scope. This chapter shall apply to all persons in the business of leasing rental motor vehicles in this State.

§ -3 Definitions. As used in this chapter:

“Advertisement” means any oral, written, graphic, or pictorial statement or representation, including those made through any electronic or print medium. “Advertisement” does not include telephonic communications.

“Collision damage waiver” means any contract or contractual provision, whether separate from or a part of a rental agreement, whereby the lessor agrees, for a charge, to waive any or all claims against the lessee for any damages to the rental motor vehicle during the term of the rental agreement.

“Director” means the director of commerce and consumer affairs.

“Lessor” means any person in the business of providing rental motor vehicles to the public.

“Lessee” means any person obtaining the use of a rental motor vehicle from a lessor for a period of six months or less under the terms of a rental agreement.

“Plain language” means language written or spoken in a clear and coherent manner using words with common and everyday meanings.

“Rental agreement” means any written agreement setting forth the terms and conditions governing the use of the rental motor vehicle by the lessee.

“Rental cost” means the daily or periodic rate charged for the use of the rental motor vehicle, but does not include optional or refueling charges.

“Rental motor vehicle” or “vehicle” means a motor vehicle as defined in section 286-2, which is rented or leased or offered for rent or lease in this State, whether for personal or commercial use, for a period of six months or less.

§ -4 Rental agreements; delivery to director. No lessor shall offer a rental agreement or collision damage waiver unless a specimen of the rental agreement or collision damage waiver is delivered to the director prior to its use.

§ -5 Rental agreements; collision damage waivers. (a) Each rental agreement which contains a collision damage waiver shall disclose, at a minimum, in plain language and in at least 10-point boldface type, the following information:

- (1) That the collision damage waiver is optional;
- (2) That the collision damage waiver entails an additional charge;
- (3) The actual charge per day for the collision damage waiver;
- (4) All restrictions, conditions, and provisions in or endorsed on the collision damage waiver;
- (5) That the lessee may already be sufficiently covered and should examine the lessee’s personal automobile insurance policy to determine whether it provides coverage for collision damage and the amount of the deductible;
- (6) That by entering into the rental agreement, the lessee may be liable for damage to the rental motor vehicle resulting from a collision; and
- (7) The acknowledgment described in section -11.

(b) The rental agreement shall not contain an unreasonable restriction, condition, or provision in or endorsed on a collision damage waiver. The collision damage waiver shall not exclude damages caused by ordinary negligence on the part of the lessee.

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§ -6 Additional mandatory charges prohibited. The daily and periodic rental cost to the lessee shall include the amount of each charge, other than the general excise tax, which is required as a condition to the rental.

§ -7 Rate disclosure requirements; advertising. Each lessor, and each officer, employee, agency, or other representative of the lessor, who states or permits to be stated the rental cost of a rental motor vehicle in any advertisement, shall state conspicuously, in plain language and in conjunction with the advertised rental cost of the vehicle, the daily rate of the applicable collision damage waiver, and that the rate constitutes an additional daily charge to the lessee. When a written advertisement, including all print media, contains the statement of the rental cost of a vehicle, the disclosure required by this section shall be printed in type no less than one-third the size of the type used to print the rental cost, or 12-point type, whichever is larger. When the video presentation of a television advertisement contains the statement of the rental cost of a vehicle, the depiction of the disclosure required by this section shall be no less than one-third the size of the depiction of the rental cost. When a radio advertisement or the audio presentation of a television advertisement contains the statement of the rental cost of the vehicle, the oral statement of the rental cost shall be immediately accompanied by an oral statement of the disclosure required by this section. Except as set forth in this section, the statement of the rental cost and the disclosure shall be equally prominent in all respects.

§ -8 Rate disclosure requirements; oral or written statements. Each lessor, and each officer, employee, agent, or other representative of the lessor, who makes any oral statement, excluding telephonic communications, or written statement of the rental cost of a vehicle, shall disclose, in plain language and in conjunction with that statement, the daily rate of the applicable collision damage waiver and that the rate constitutes an additional daily charge to the lessee.

§ -9 Posting requirements. Except as provided in section -17, each lessor who offers the collision damage waiver shall conspicuously display at the rental area of each rental location a notice, in plain language and printing, which includes all of the information in sections -5(a)(1), (2), (5), and (6), and a statement that restrictions or conditions apply.

§ -10 Pamphleting requirements. Before the execution of a rental agreement, each lessor who offers the collision damage waiver option to a lessee shall provide to the lessee a pamphlet, written in plain language, which includes all of the information described in section -5(a)(1) through (6). The requirements of this section shall be deemed to be satisfied if the lessor places the pamphlets prominently and conspicuously on the rental desk or countertop, where the pamphlets may be easily seen and reached by lessees and potential lessees.

§ -11 Acknowledgement by lessee. No lessor shall rent a motor vehicle to a lessee until the lessee has acknowledged that the lessee understands the information described in sections -5(a)(1), (2), (3), (5), and (6), and that restrictions or conditions apply. The acknowledgement shall be written in plain language on the rental agreement and signed by the lessee.

§ -12 Deposit or advance charge prohibited; payment for damages to rental motor vehicle. No lessor shall require a deposit or an advance charge against the credit card of a lessee, in any form, for damages to a vehicle which is in the lessee's possession, custody, or control. No lessor shall require any payment for

damages to the rental vehicle, upon the lessee's return of the vehicle in a damaged condition, until after the cost of the damage to the vehicle and liability therefor is agreed to between the lessor and lessee or is determined pursuant to law.

§ -13 Notice and posting required concerning seat belt, child passenger restraint, and drunk driving laws. (a) Every lessor shall display in a conspicuous place in each rental motor vehicle offered to the public, a permanently affixed notice, written in plain language and in no less than ten point type, which informs the lessee of the requirement and penalties of Hawaii's seat belt and child passenger restraint laws, as provided in sections 291-11.5 and 291-11.6, and the prohibition against and the penalties for driving while under the influence of intoxicating liquor, as provided in section 291-4.

(b) Except as provided in section -16, a sign or signs written in plain language calling attention to the laws referred to in subsection (a) shall be prominently posted in the main rental area of all rental locations in a place and manner conspicuous to the public.

(c) The notices and signs required by this section shall include symbolic representations which are of common understanding and clearly recognizable to the public as conveying the required use of seat belts and child passenger restraint systems in the operation of a motor vehicle and the prohibition against driving while under the influence of intoxicating liquor.

(d) The director shall prescribe the form of the notices and signs required by this section.

§ -14 Fuel charges. (a) Except as provided in this section, refueling charges are prohibited.

(b) Upon the lessee's return of the vehicle, if the amount of fuel remaining in the vehicle is less than the amount originally provided by the lessor, the lessor may charge the lessee to refuel the vehicle based upon the number of gallons or liters used by the lessee. The amount of fuel which may be charged to the lessee shall be calculated in one of two ways:

- (1) If the vehicle was delivered to the lessee with a full tank, the number of gallons or liters required to refill the tank, or
- (2) If the vehicle was rented with less than a full tank, the number of gallons or liters less than the amount originally provided by the lessor according to the vehicle's gas gauge as read both before and after the lessee's use thereof, employing an appropriate chart showing the number of gallons or liters corresponding to the gas gauge readings. Each chart shall be specifically keyed to the model of car.

(c) Upon the lessee's return of the vehicle, if the amount of fuel remaining in the rental vehicle is greater than the amount originally provided by the lessor upon delivery of the vehicle to the lessee, the lessor shall credit the lessee an amount based on the gallons or liters added by the lessee, calculated by the method set forth in subsection (b)(2).

(d) In the event that the lessor has no reasonably accessible refueling facilities, the lessor is not required to give the credit to the lessee as described in subsection (c); provided that if no credit is given, the lessor shall disclose that fact to the lessee at the time the rental agreement is signed.

(e) The lessor shall provide the lessee with written notice of the amount to be credited, except as provided in subsection (d), or charged on a per gallon or per liter basis.

(f) The price per gallon or per liter which is charged for the amount of fuel required to refuel the vehicle, as provided in subsection (b), shall not exceed the sum of the locally prevailing retail market price for similar fuel sold at self-service

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gasoline pumps by commercial gasoline dealers and a reasonable surcharge not to exceed one-half of that retail price.

(g) The per gallon or per liter amount which is credited pursuant to subsection (c), except as provided in subsection (d), may not be lower than the locally prevailing retail market price for similar fuel sold by commercial gasoline dealers.

§ -15 Unfair trade practices. Each lessor, and each officer, employee, agent, and other representative thereof, is prohibited from engaging in any practice constituting a violation of chapter 480. The following shall be per se violations of section 480-2:

- (1) The making of any material statement which has the tendency or capacity to mislead or deceive, either orally or in writing, in connection with the rental of, offer to rent, or advertisement to rent a vehicle;
- (2) The omission of any material statement which has the tendency or capacity to mislead or deceive, in connection with the rental of, offer to rent, or advertisement to rent a vehicle;
- (3) The making of any statement to the effect that the purchase of a collision damage waiver is mandatory;
- (4) Any violation of sections -5 through -14 of this chapter;
- (5) The charging by the lessor to a lessee of more than the cost of the parts and labor necessary to repair a damaged vehicle in accordance with the standard practices in the automobile repair industry in the community; and
- (6) The making of any statement by the lessor to the effect that the lessee is or will be confined to remain within boundaries specified by the lessor unless payment or an agreement relating to the payment of damages has been made by the lessee.

§ -16 Application of insurance laws. None of the provisions of this chapter shall apply to the issuance of collision insurance underwritten by an insurer authorized to transact property and casualty business in this State.

§ -17 Exceptions to posting requirements. The posting requirements of sections -9 and -13 shall not apply to a lessor who is a party to a commercial lease which prohibits all posting and which is in force on January 1, 1989.

§ -18 Power and duties of the director. The director shall have the power and duty to adopt, amend, and repeal rules in accordance with chapter 91 to carry out the purposes of this chapter and to do all things necessary to carry out the functions, powers, and duties set forth in this chapter.

§ -19 Civil penalties. Any person who violates or attempts to violate any provision of this chapter shall be fined a sum of not less than \$500 nor more than \$10,000 for each violation, which sum shall be collected in a civil suit brought by the office of consumer protection or the department of commerce and consumer affairs. Each day or instance of violation shall be deemed a separate violation and shall subject the person to a separate civil penalty."

SECTION 3. 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 4. This Act shall take effect on July 1, 1988; provided that sections -14 and -19 shall not be enforced until October 1, 1988; provided further that sections -4 to -13 and section -15 shall not be enforced until January 1, 1989.

(Approved June 9, 1988.)

ACT 252

H.B. NO. 2078

A Bill for an Act Relating to Ohana Zoning.

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

SECTION 1. Section 46-4, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) [Neither this section nor any other law,] Each county [ordinance, or rule] shall [prohibit] adopt reasonable standards to allow the construction of two single-family dwelling units on any lot where a residential dwelling unit is permitted; provided:

- (1) All applicable county requirements, not inconsistent with the intent of this subsection, are met, including building height, setback, maximum lot coverage, parking, and floor area requirements; [and]
- (2) The county determines that public facilities are adequate to service the additional dwelling units permitted by this subsection[.]; and
- (3) Construction of the second dwelling is otherwise in accordance with applicable zoning ordinances and rules, and general plan and development plan policies.

Nothing in this section shall supersede any recorded covenant or deed restriction that prohibits the construction of a second dwelling on a lot.

After receiving notice that a permit has been granted pursuant to this subsection, the applicant, once a week, for two consecutive weeks, shall publish a notice in a newspaper of general circulation in the area stating the applicant's name and address of the property, and notifying the public that the permit has been obtained. No construction shall be initiated until the last of the notices has been published. If the applicant fails to publish the notices, and constructs the unit, and a covenant or deed restriction exists that would have precluded the construction of the second unit, any person or entity who successfully brings an action for violation of the covenant or deed restriction shall be entitled to reasonable attorney's fees and costs.

This subsection shall not apply to lots developed under planned unit development, cluster development, or similar provisions which allow the aggregate number of dwelling units for the development to exceed the density otherwise allowed in the zoning district.

Each county shall establish a review and permit procedure necessary for the purposes of this subsection."

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

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

(Approved June 9, 1988.)

A Bill for an Act Relating to Motor Vehicle Safety Inspections.

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

SECTION 1. Section 286-26, Hawaii Revised Statutes, is amended to read as follows:

“§286-26 Certificates of inspection. (a) The following vehicles shall be certified as provided in subsection (e) once every six months:

- (1) Ambulances[,];
- (2) Trucks, truck-tractors, semitrailers, [or] and pole trailers having a gross vehicle weight rating of more than 10,000 pounds[,];
- (3) Buses[,];
- (4) Rental or U-drive motor vehicles[,]; and
- (5) Taxi cabs.

(b) All other vehicles, including motorcycles, trailers, semitrailers, and pole trailers having a gross vehicle weight rating of 10,000 pounds or less, and antique motor vehicles as defined in section 249-1, except those in subsections (c) and (d), shall be certified as provided in subsection (e) every twelve months.

(c) Any vehicle [which] that has been involved in an accident shall be certified as provided in subsection (e) before it is operated again if:

- (1) It is determined by a police officer or an insurer that the vehicle's equipment has been damaged so as to render the vehicle unsafe; or
- (2) It is rebuilt or restored.

(d) Every vehicle shall be certified prior to the issuance of a temporary or permanent registration by the director of finance and prior to the transfer of any registration; provided that this requirement shall not apply to a subsequent transfer of registration in a vehicle [which] that carries a current certificate of inspection.

(e) Upon application for a certificate of inspection to be issued on a vehicle, an inspection as prescribed by the director of transportation under subsection [(f)] (g) shall be conducted on the vehicle, and if the vehicle is found to be in a safe operating condition, a certificate of inspection shall be issued upon payment of a fee to be determined by the [council of each county.] director of transportation. A sticker, authorized by the director of transportation, shall be affixed to the vehicle at the time a certificate of inspection is issued.

(f) The operator of an official inspection station shall pay, from the fee in subsection (e), an amount to be determined by rules adopted pursuant to chapter 91 to the director of transportation. This amount shall be expended only for administration and enforcement of the periodic motor vehicle inspection program. The funds collected pursuant to this subsection shall be deposited into the highway special fund.

[(f)] (g) The director of transportation shall adopt necessary rules [and regulations] for the administration of inspections[,] and the issuance of certificates of inspection[, and the acceptance of certificates of inspection issued in other jurisdictions].

[(g)] (h) This section shall not apply to:

- (1) Any motor vehicle which is covered by part XI [of this chapter], governing safety of motor carrier vehicle operation and equipment; provided that the rules adopted pursuant to part IA[,] impose standards of inspection at least as strict as those imposed under subsection [(f),] (g) and that certification is required at least as often as provided in subsections (a), (b), (c), and (d); and

- (2) Aircraft servicing vehicles [which] that are being used exclusively on lands set aside to the department of transportation for airport purposes.
- [(h)] (i) As part of the inspection required by this section, the owner of the vehicle to be inspected shall produce and display the no-fault insurance identification card for the inspected motor vehicle required by section 294-8.5 or the proof of insurance card required by section 294-12.6. If no card is displayed, then the sticker authorized by the [state] director of transportation shall not be affixed to the vehicle and the certificate of inspection shall not be issued."

SECTION 2. Section 286-27, Hawaii Revised Statutes, is amended to read as follows:

"§286-27 Permits to operate official inspection stations. (a) [Each county, through its legislative body, shall designate a county department,] The department of transportation, referred to in this section and sections 286-28 and 286-29 as "the department", [whose responsibility shall include the issuance of] shall be responsible for issuing permits for and [the] furnishing [of] instructions and all forms to official inspection stations [within the respective county]. The stations shall operate in the manner directed by the department pursuant to standards established by the [state] director of transportation.

(b) Application for an official inspection permit shall be made upon an official form and shall be granted only when the department is satisfied that the station is properly equipped and has competent personnel to make the required inspections. Before issuing a permit, the department shall require [that] the applicant to file proof that the applicant has, in effect, a liability insurance policy, issued to the applicant by an insurance company[,] authorized to do business in the State, insuring against the liability of the applicant and any of the applicant's employees[,] in minimum amounts as follows: comprehensive public liability insurance in the amount of \$10,000 for one person and \$20,000 for one accident and comprehensive property damage insurance of \$5,000; provided that the [state] director of transportation [may,] by rules [and regulations, set] may establish higher limits; provided that the proof of insurance need not be filed by an applicant who shall inspect only vehicles owned by the applicant; and provided further that the proof of insurance need not be filed by instrumentalities of the United States.

(c) A permit for an official station shall not be assigned or transferred or used at any location other than that designated by the department and every [said] permit shall be posted in a conspicuous place at the location [so] designated.

(d) The department of transportation may contract with the counties for the necessary administrative and enforcement services."

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

SECTION 4. This Act shall take effect on July 1, 1989.

(Approved June 9, 1988.)

A Bill for an Act Relating to Public Utilities.

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

SECTION 1. Section 269-28, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

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"(a) Any public utility violating or neglecting or failing in any particular to conform to or comply with this chapter or any lawful order of the public utilities commission shall be subject to a civil penalty not to exceed [\$1,000] \$25,000 for each day such violation, neglect, or failure[,] continues, to be assessed by the commission after a hearing in accordance with chapter 91. The commission may order the public utility to cease carrying on its business while the violation, neglect, or failure continues.

(b) Notwithstanding the provisions of subsection (a) [of this section], any public utility violating or neglecting or failing in any particular to conform to or comply with any rule, regulation, or order of the commission setting forth safety requirements applicable to the transmission of gas shall be subject to a civil penalty not to exceed [\$1,000] \$25,000 for each day that such violation, neglect or failure continues; provided that the maximum penalty for related violations arising out of the same act, omission or occurrence shall not exceed \$200,000."

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

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

(Approved June 9, 1988.)

ACT 255

H.B. NO. 2591

A Bill for an Act Making an Appropriation to Develop and Implement Environmental Education Programs.

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

SECTION 1. The legislature finds that there is a need to fund the development and implementation of an educational program to carry out the mandate of chapter 341, Hawaii Revised Statutes. One of the recurring problems that has come before the state environmental council over the years is the apparent lack of understanding by some agency staffs of the provisions of chapter 343, Hawaii Revised Statutes, and the environmental impact statement regulations. This educational program, which will be coordinated by the office of environmental quality control, will involve educational guidance to state and county agency staffs to ensure conformance with the environmental review procedures provided by chapter 343, Hawaii Revised Statutes. It will also include workshops to be held throughout the state for agency staffs and the public on various environmental review procedures. The program will serve to point out the office of environmental quality control's responsibilities with regard to chapter 343, Hawaii Revised Statutes, and its environmental coordinating functions.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$35,000, or so much thereof as may be necessary for fiscal year 1988-1989, to carry out the purposes of this Act.

SECTION 3. The sum appropriated shall be expended by the office of environmental quality control.

SECTION 4. This Act shall take effect on July 1, 1988.

(Approved June 9, 1988.)

ACT 256

H.B. NO. 2774

A Bill for an Act Relating to Libraries.

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 \$100,000, or so much thereof as may be necessary for fiscal year 1988-1989, for the purchase of a computer catalog for the braille library of the State of Hawaii to handle circulation of materials.

SECTION 2. The sum appropriated shall be expended by the department of education for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 1988.

(Approved June 9, 1988.)

ACT 257

H.B. NO. 3012

A Bill for an Act Relating to the Department of Health.

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

SECTION 1. Section 321-174, Hawaii Revised Statutes, is amended to read as follows:

“§321-174 Coordination of services with department of education. The children's mental health services team shall cooperate with the schools located in their particular geographic region in identifying and referring for treatment such children or youths in need of mental health services. In conjunction with the children's mental health services team, the department of education and the department of health shall develop a memorandum of agreement which shall provide for a sharing of responsibilities for the affected agencies and shall include but not be limited to provisions for:

- (1) Accepting referrals from the school counselors and diagnostic teams for evaluation and direct treatment of children and youth suffering from mental and emotional disorders;
- (2) Providing consultation to enable teachers and other school personnel to aid in the identification and screening of children in need of professional mental health services and the services of psychologists, as defined in chapter 465;
- (3) Providing training and education about emotional disturbances of children to teachers, school counselors, and parents;
- (4) Assisting the department of education with mental health services and the services of psychologists, as defined in chapter 465 for handicapped children; [and]
- (5)¹ Developing an ongoing mechanism to assess, document and report to the legislature and the governor unmet needs for mental health services for students in each geographic region; and
- [55] (6) Performing other related services for school personnel, children, and parents.”

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$550,000, or so much thereof as may be necessary for fiscal

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year 1988-1989, for additional personnel and operating expenses for the department of health for the implementation of Chapter 321 sections 171-177, mental health services for children and youth and for the development and improvement of a system of care and delivery for children's mental health.

SECTION 3. The sum appropriated shall be expended by the department of health for the purpose of this Act.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 1988.

(Approved June 9, 1988.)

Note

1. Should be underscored.

ACT 258

H.B. NO. 3173

A Bill for an Act Relating to the Honolulu Symphony.

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

SECTION 1. Section 40-88, Hawaii Revised Statutes, is amended to read as follows:

“[§40-88] [Honolulu symphony] State of Hawaii endowment fund created. There shall be established [a fund to be known as the Honolulu symphony endowment fund which shall be administered by the department of accounting and general services. The income from the endowment fund shall be used for operations of the Honolulu symphony. The aggregate principal sum in the endowment fund shall be invested by the department in a manner which will preserve the principal sum and maximize the rate of return on investment of the fund. The department, in accord with chapter 91, may adopt rules to carry out the purposes of this section.] as a separate fund of the Honolulu symphony trust created by the trust agreement dated December 5, 1986, a fund to be known as the State of Hawaii endowment fund, the income and capital gains from which fund shall be used for operations of the Honolulu symphony. The State of Hawaii endowment fund shall be subject to the restrictions that:

- (1) No part of the principal amount contributed to the fund by the State or by matching grants shall be used for operations of the Honolulu symphony;
- (2) Income and capital gains from the fund shall not be distributed for use in the operations of the Honolulu symphony during any period that the value of the fund shall be less than the principal amounts contributed to the fund; and
- (3) The amounts contributed to the fund by the State shall revert to the State to the extent that matching or other conditions to the grant of the funds are not met, and the fund shall also be subject to additional restrictions as may be imposed with respect to transfers of funds in future legislation appropriating sums to be contributed to the fund.

The aggregate principal sum in the fund shall be invested in accordance with the provisions of the Honolulu symphony trust in a manner intended to max-

imize the rate of return on investment of the fund consistent with the objective of preserving the principal amounts contributed to the fund. In the event of the termination of the Honolulu symphony trust, the principal amount of all contributions made by the State to the State of Hawaii endowment fund shall be distributed to the general fund of the State and any other amounts remaining in the State of Hawaii endowment fund shall be distributed in accordance with the provisions of the Honolulu symphony trust. An annual audit by an independent auditor covering the State of Hawaii endowment fund shall be submitted to the department of accounting and general services by the Honolulu symphony.”

SECTION 2. Act 382, Session Laws of Hawaii 1987, is amended by amending section 2 to read as follows:

“SECTION 2. There is appropriated out of the general revenues of the State of Hawaii a sum up to \$500,000 in fiscal year 1987-1988, to lapse in fiscal year 1988-1989, and a sum up to \$500,000 in fiscal year 1988-1989 to establish the [Honolulu symphony] State of Hawaii endowment fund. [This] The sum appropriated for fiscal year 1987-1988 to the State of Hawaii endowment fund shall be made available to the fund in fiscal year 1987-1988 and shall be released upon the enactment of this Act; the sum appropriated for fiscal year 1988-1989[; shall be made available to the fund on July 1, 1988; provided that such sums are] to be matched by the Honolulu symphony on a one-to-one basis through a special fund-raising effort, separate and apart from the symphony’s annual fund-raising drive. Any state funds, not to exceed \$1,000,000, not matched by the Honolulu symphony by the end of fiscal year 1989 shall revert to the general fund.”

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

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

(Approved June 9, 1988.)

ACT 259

S.B. NO. 151

A Bill for an Act Relating to Drug Paraphernalia.

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

SECTION 1. Section 329-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read:

““Drug paraphernalia” means all equipment, products, and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter. It includes, but is not limited to:

- (1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

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- (2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
- (3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;
- (4) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness, or purity of controlled substances;
- (5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
- (6) Diluents and adulterants; such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in cutting controlled substances;
- (7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;
- (8) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances;
- (9) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;
- (10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;
- (11) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;
- (12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:
 - (A) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - (B) Water pipes;
 - (C) Carburetion tubes and devices;
 - (D) Smoking and carburetion masks;
 - (E) Roach clips: meaning objects used to hold burning materials, such as marijuana cigarettes, that have become too small or too short to be held in the hand;
 - (F) Miniature cocaine spoons, and cocaine vials;
 - (G) Chamber pipes;
 - (H) Carburetor pipes;
 - (I) Electric pipes;
 - (J) Air-driven pipes;
 - (K) Chillums;
 - (L) Bongs; and
 - (M) Ice pipes or chillers.

In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

- (1) Statements by an owner or by anyone in control of the object concerning its use;

- (2) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance;
- (3) The proximity of the object, in time and space, to a direct violation of this chapter;
- (4) The proximity of the object to controlled substances;
- (5) The existence of any residue of controlled substances on the object;
- (6) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to a person or persons whom the owner or person in control knows, or should reasonably know, intend to use the object to facilitate a violation of this chapter; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this chapter shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
- (7) Instructions, oral or written, provided with the object concerning its use;
- (8) Descriptive materials accompanying the object which explain or depict its use;
- (9) National and local advertising concerning its use;
- (10) The manner in which the object is displayed for sale;
- (11) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- (12) Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise;
- (13) The existence and scope of legitimate uses for the object in the community; and
- (14) Expert testimony concerning its use.”

SECTION 2. Chapter 329, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§329- Prohibited acts related to drug paraphernalia. (a) It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this chapter. Any person who violates this section is guilty of a class C felony and upon conviction may be imprisoned pursuant to section 706-660 and, if appropriate as provided in section 706-641, fined pursuant to section 706-640.

(b) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this chapter. Any person who violates this section is guilty of a class C felony and upon conviction may be imprisoned pursuant to section 706-660 and, if appropriate as provided in section 706-641, fined pursuant to section 706-640.

(c) Any person eighteen years of age or over who violates subsection (b) by delivering drug paraphernalia to a person or persons under eighteen years of age who are at least three years younger than that adult person is guilty of a class B felony and upon conviction may be imprisoned pursuant to section 706-660 and, if appropriate as provided in section 706-641, fined pursuant to section 706-640.

(d) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. Any person who violates this section is guilty of a class C felony and upon conviction may be imprisoned pursuant to section 706-660 and, if appropriate as provided in section 706-641, fined pursuant to section 706-640."

SECTION 3. Section 329-55, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The following are subject to forfeiture[:] according to the procedures set forth in the Penal Code:

- (1) All controlled substances which have been manufactured, cultivated, grown, distributed, dispensed, or acquired in violation of this chapter;
- (2) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, cultivating, growing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter;
- (3) All property which is used, or intended for use, as a container for property described in paragraph (1) or (2);
- (4) All conveyances, including aircraft, vehicles, or vessels which are used or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in paragraph (1) or (2), but:
 - (A) No conveyance used by any person as common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;
 - (B) No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without the owner's knowledge or consent; and
 - (C) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission;
- (5) All books, records, and research products and materials, including formulas, microfilms, tapes, and data which are used, or intended for use, in violation of this chapter;
- (6) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this chapter, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this chapter, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner[.];
- (7) All firearms which are visible, carried during, or used in furtherance of a violation of this chapter or chapter 712, part IV[.]; and

(8) All drug paraphernalia as defined by section 329-1 of this chapter."

SECTION 4. If any provision of this Act or the application thereof to any person or circumstances 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 5. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 6. This Act shall take effect upon its approval.

(Approved June 9, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 260

H.B. NO. 2080

A Bill for an Act Relating to Forfeiture.

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

SECTION 1. Title 37, Hawaii Revised Statutes, is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER
FORFEITURE”**

§ -1 Definitions. In this chapter, unless a different meaning plainly is required:

“Attorney general” means the attorney general or deputy attorneys general of the State of Hawaii.

“Contraband” means any property the possession of which is illegal.

“Controlled substances” means a drug, substance, or immediate precursor in schedules I through V of chapter 329, part II.

“Covered offense” means any crime set forth in section or any other offense for which forfeiture is provided by the law relating to a particular offense.

“Enterprise” includes any sole proprietorship, partnership, corporation, association, or any union or group of individuals associated for a particular purpose although not a legal entity.

“Interest-holder” means a person in whose favor there is a security interest or who is the beneficiary of a perfected encumbrance pertaining to an interest in property.

“Law enforcement officer” means any public servant, whether employed by the State or subdivisions thereof or by the United States, vested by law with a duty to maintain public order, to make arrests for offenses, or to enforce the criminal laws, whether that duty extends to all offenses or is limited to a specific class of offenses. The attorney general, deputy attorneys general, county prosecuting attorneys, and deputy prosecuting attorneys engaged in the enforcement of criminal laws are included in the definition of the term law enforcement officer.

“Owner” means a person who is not a secured party within the meaning of section 490:9-105(N) and who has an interest in property¹, whether legal or

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equitable. A purported interest which is not in compliance with any statute requiring its recordation or reflection in public records in order to perfect the interest against a bona fide purchaser for value shall not be recognized as an interest against this State in an action pursuant to this chapter. An owner with power to convey property binds other owners, and a spouse binds the person's spouse, by any act or omission.

"Person" includes any individual or entity capable of holding a legal or beneficial interest in property.

"Person known to have an interest" means a person whose interest in property is reflected in the public records in which his interest is required by law to be recorded or reflected in order to perfect his interest. If a person's interest in property is not required by law to be reflected in public records in order to perfect the person's interest in the property, a person shall be known to have an interest only if such interest can be readily ascertained at the time of the commencement of the forfeiture action pursuant to this chapter.

"Proceeds" means anything of value, derived directly or indirectly from or realized through unlawful activity.

"Property" means real property, including things growing on, affixed to, and found on land; tangible and intangible personal property, including currency, instruments, vehicles, boats, aircraft or any other kind of conveyance; and all rights, privileges, interests, claims, and securities pertaining to such property.

"Prosecuting attorney" means the prosecuting attorney or deputy prosecuting attorneys of the various counties, or the attorney general or deputy attorneys general when engaged in the prosecution of a criminal offense.

"Seizing agency" means any department or agency of this state or its political subdivisions which regularly employs law enforcement officers, and which employed the law enforcement officers, and which employed the law enforcement officer who seized property for forfeiture, or such other agency as the seizing agency may designate in a particular case by its chief executive officer or designee.

"Seizure for forfeiture" means seizure of property by a law enforcement officer coupled with an assertion by the seizing agency or by a prosecuting attorney that the property is subject to forfeiture.

§ -2 Jurisdiction. The State may commence a proceeding in the circuit court if the property for which forfeiture is sought is within this State at the time of the filing of the action or if the courts of this state have in personam jurisdiction of an owner of or interest-holder in the property.

§ -3 Venue. An action brought pursuant to this chapter may be brought in the county which the property is seized or in any county where an owner or interest-holder could be complained against for the conduct alleged to give rise to the forfeiture of the property.

§ -4 Covered offenses. (1) Offense for which property is subject to forfeiture under this chapter are:

- (a) All offenses which specifically authorize forfeiture;
- (b) Murder, kidnapping, gambling, criminal property damage, robbery, bribery, extortion, theft, burglary, promoting a dangerous, harmful, or detrimental drug, or commercial promotion of marijuana, which is chargeable as a felony offense under state law; and
- (c) The manufacture, sale, or distribution of a controlled substance in violation of chapter 329, promoting detrimental drugs or intoxicating compounds, promoting pornography, promoting pornography for minors, or promoting prostitution, which is chargeable as a felony or misdemeanor offense, but not as a petty misdemeanor, under state law.

(2) The attempt, conspiracy, solicitation, coercion, or intimidation of another to commit any offense for which property is subject to forfeiture.

§ -5 Property subject to forfeiture; exemption. (1) The following is subject to forfeiture:

- (a) Property described in a statute authorizing forfeiture;
 - (b) Property used or intended for use in the commission of, attempt to commit, or conspiracy to commit a covered offense, or which facilitated or assisted such activity;
 - (c) Any firearm which is subject to forfeiture under any other subsection of this section or which is carried during, visible, or used in furtherance of the commission, attempt to commit, or conspiracy to commit a covered offense, or any firearm found in proximity to contraband or to instrumentalities of an offense;
 - (d) Contraband, which shall be seized and summarily forfeited to the state without regard to the procedures set forth in this chapter;
 - (e) Any proceeds or other property acquired, maintained, or produced by means of or as a result of the commission of the covered offense;
 - (f) Any property derived from any proceeds which were obtained directly or indirectly from the commission of a covered offense;
 - (g) Any interest in, security of, claim against, or property or contractual right of any kind affording a source of influence over any enterprise which has been established, participated in, operated, controlled, or conducted in order to commit a covered offense;
 - (h) All books, records, bank statements, accounting records, microfilms, tapes, computer data, or other data which are used, intended for use, or which facilitated or assisted in the commission of a covered offense, or which document the use of the proceeds of a covered offense.
- (2) Except that:
- (a) Real property, or an interest therein, may be forfeited under the provisions of this chapter only in cases in which the covered offense is chargeable as a felony offense under state law;
 - (b) No property shall be forfeited under this chapter to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge and consent of that owner.
 - (c) No conveyance used by any person as a common carrier in the transaction of a business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter; and
 - (d) No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without the owner's knowledge or consent.
 - (e) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission.

§ -6 Seizure of property. (1) Property subject to forfeiture under this chapter may be seized for forfeiture by a law enforcement officer:

- (a) On process issued pursuant to the rules of civil procedure or the provisions of this chapter including a seizure warrant;

- (b) By making a seizure for forfeiture on property seized on process issued pursuant to law; or
- (c) By making a seizure for forfeiture without court process as follows:
 - (i) The seizure for forfeiture is of property seized incident to an arrest or search;
 - (ii) The property subject to seizure for forfeiture has been the subject of a prior judgement in favor of the state or any other state or the federal government in forfeiture proceeding;
 - (iii) The law enforcement officer has probable cause to believe that the property seized for forfeiture is directly or indirectly dangerous to health or safety; or
 - (iv) The law enforcement officer has probable cause to believe that the property is subject to forfeiture.

(2) In determining probable cause for seizure, the fact that a firearm, money, or any negotiable instrument was found in proximity to contraband or to instrumentalities of an offense gives rise to an inference that the money, or instrument was the proceeds of contraband or that the firearm, money or instrument was used or intended to be used to facilitate commission of the offense.

§ -7 Powers and duties of law enforcement officers and agencies. (1)

In the event of a seizure for forfeiture under section -6, the property is not subject to replevin, conveyance, sequestration, or attachment but is deemed to be in the custody of the law enforcement agency making the seizure for forfeiture. The seizing agency or the prosecuting attorney may authorize the release of the seizure for forfeiture on the property if forfeiture or retention is unnecessary, may transfer the property to any other county, state, or federal agency or may transfer the action to another prosecuting attorney by discontinuing forfeiture proceedings in favor of forfeiture proceedings initiated by the other agency or prosecuting attorney. An action pursuant to this chapter shall be consolidated with any other action or proceeding pursuant to this chapter relating to the same property upon motion by the prosecuting attorney in either action.

(2) If property is seized for forfeiture under section -6 pending forfeiture and final disposition, the seizing agency may do any of the following:

- (a) Place the property under constructive seizure by posting notice of seizure for forfeiture on the property or by filing notice of seizure for forfeiture or notice of pending forfeiture in any appropriate public record relating to the property;
- (b) Remove the property to a storage area for safekeeping or, if the property is a negotiable instrument or money, deposit it in an interest bearing account;
- (c) Remove the property to a place designated by the court; or
- (d) Provide for another agency to take custody of the property and remove it to an appropriate location within the jurisdiction of the court.

(3) As soon as practicable after seizure for forfeiture, the seizing agency shall conduct an inventory and estimate the value of the property seized. Within twenty days after seizure for forfeiture the seizing agency shall make reasonable efforts to provide notice of seizure for forfeiture to all parties known to have an interest in the seized property.

(4) In the event of a seizure for forfeiture under section -6, the seizing agency shall send to a prosecuting attorney a written request for forfeiture within thirty days, which shall include a statement of facts and circumstances of the seizure, the appraised or estimated value of the property, and a summary of the facts relied on for forfeiture.

§ -8 Notice of pending forfeiture. Whenever notice of pending forfeiture is required under this chapter it shall be given or provided in one of the following ways:

- (a) If the owner's or interest-holder's name and current address are known:
 - (i) By personal service; or
 - (ii) If the mailing a copy of the notice to the address;
- (b) If the owner's or interest-holder's interest is required by law to be on record with a state or federal agency in order to perfect an interest in the property, but the person's current address is not known, by mailing a copy of the notice by certified mail to any address on the record; or
- (c) If the owner's or interest-holder's address is not known, and is not on record pursuant to subsection (b), or if the person's interest is not known, by publication in one issue of a newspaper of general circulation in the county in which the seizure occurs.

§ -9 Commencement of proceedings. (1) The prosecuting attorney shall determine whether it is probable that the property is subject to forfeiture and, if so, may cause the initiation of administrative or judicial proceedings against the property. If, on inquiry and examination, the prosecuting attorney determines that the proceedings probably cannot be sustained or that justice does not require the institution of such proceedings, the prosecuting attorney shall notify the seizing agency, and as soon as practicable authorize the release of the seizure for forfeiture on the property or on any specified interest in it.

(2) If the property sought to be forfeited is real property, including fixtures, the prosecuting attorney shall file a lis pendens with respect to the property.

§ -10 Administrative forfeiture. The prosecuting attorney may initiate administrative forfeiture of property other than real property, the estimated value of which is less than \$100,000.00, or of any vehicle or other conveyance, regardless of value, in the following manner:

- (1) If the prosecuting attorney initiates administrative forfeiture, the prosecuting attorney shall provide notice of pending forfeiture by giving notice within thirty days after receiving written request for seizure for forfeiture from the seizing agency as provided in § -8 to persons known to have an interest who have not previously received notice;
- (2) Administrative forfeiture shall be initiated by filing a petition with the attorney general, who may promulgate rules and regulations to effectuate the purposes of this section;
- (3) The attorney general may forfeit property administratively as follows:
 - (a) The attorney general shall provide notice of intention to forfeit property administratively by publication in a local newspaper of general circulation;
 - (b) In addition, to the extent practicable the attorney general shall provide notice of intent to forfeit the property administratively to all persons known to have an interest in the property seized;
 - (c) Notice by publication or by mail shall include:
 - (i) A description of the property;
 - (ii) The estimated value of the property;
 - (iii) The date and place of seizure;
 - (iv) The violation of law alleged which authorizes forfeiture of the subject property;
 - (v) Instructions for filing a claim and cost or in pauperis bond, or a petition for remission or mitigation; and

- (vi) Notice that the property will be forfeited to the state if a petition for remission or mitigation or a claim and cost or in pauperis bond has not been timely filed.
- (4) Persons claiming an interest in the property may file either a petition for remission or mitigation of forfeiture, or a claim and cost or in pauperis bond, but not both, with the attorney general, within thirty days of the final notice by publication or receipt of written notice, whichever is earlier.
- (5) It shall be the duty of the attorney general to inquire into the facts and circumstances surrounding petitions for remission or mitigation of forfeiture. However, no petitioner is entitled to a hearing on the petition for remission or mitigation. Hearings, if any, shall be held at the discretion of the attorney general.
- (6) The attorney general shall provide the seizing agency and the petitioner a written decision on each petition for remission or mitigation within sixty days of receipt of such petition unless the circumstances of the case require additional time, in which case the attorney general shall notify the petitioner in writing and with specificity within the sixty day period that the circumstances of the case require additional time and further notify the petitioner of the expected decision date.
- (7) Any person claiming seized property may institute judicial review of the seizure and proposed forfeiture by timely filing with the attorney general a claim and bond to the State in the amount of 10 per cent of the estimated value of the property or in the sum of \$2,500, whichever is greater, with sureties to be approved by the attorney general, upon condition that in the case of the forfeiture the claimant shall pay all costs and expenses of the proceedings. In lieu of a cost bond, a claimant may file, under penalty of perjury, an in pauperis bond. The claim shall be signed under penalty of perjury and shall comply with the requirements of § -12(5). Upon receipt of the claim and bond, the attorney general shall notify the prosecuting attorney who may discretionarily continue to seek forfeiture by petitioning the circuit court for forfeiture of the property or may elect to honor the claim in which case the prosecuting attorney shall notify the seizing agency and authorize the release of the seizure for forfeiture on the property or on any specified interest in it. Any funds received by the attorney general as cost bonds shall be placed in an escrow accounting pending final disposition of the case.
- (8) If a judicial forfeiture proceeding is instituted subsequent to notice of administrative forfeiture, no duplicate or repetitive notice shall be required. The judicial proceeding, if any, shall adjudicate all timely filed claims.
- (9) In the event no claim and bond is timely filed, or if the attorney general, with sole discretion, determines that remission or mitigation is not warranted, the attorney general shall order forfeited all property seized for forfeiture. In the event the attorney general, with sole discretion, determines that remission or mitigation is warranted, the attorney general shall notify the seizing agency and the prosecuting attorney and order the release of the seizure for forfeiture on the property or on any specified interest in it. There shall be no appeal from the attorney general's decision or order of forfeiture or remission of mitigation.
- (10) Administrative proceedings and the adoption of rules under this section are exempt from the requirements of chapter 91, the Hawaii admin-

istrative procedure act, and are adjudicatory functions for the purposes of applicable sections of the Hawaii Revised Statutes.

§ -11 Judicial forfeiture proceedings; general. (1) In any judicial or administrative proceeding pursuant to this chapter, the court, on application of the state, may enter any restraining order or injunction, require the execution of satisfactory performance bonds, create receiverships, appoint conservators, appraisers, accountants or trustees, or take any other action to seize, secure, maintain, or preserve the availability of property subject to forfeiture under this chapter, including a warrant for its seizure, whether before or after the filing of a petition for forfeiture, complaint, or indictment.

(2) If property is seized for forfeiture without a seizure warrant, a prior judicial order of forfeiture, or a hearing pursuant to § -13, a court, on an application filed by an owner or interest-holder within fifteen days after notice of its seizure for forfeiture or actual knowledge of it, whichever is earlier, and complying with the requirements for claims in § -12, may issue an order to show cause to the seizing agency, with 30 days' notice to the prosecuting attorney, for a hearing on the issue of whether probable cause for forfeiture of the applicant's interest then exists, provided that, the order to show cause shall be set aside upon the filing of a petition for either administrative or judicial forfeiture prior to the hearing, in which event forfeiture proceedings shall be in accordance with this chapter.

(3) A defendant convicted in any criminal proceeding shall be precluded from subsequently denying the essential allegations of the criminal offense of which the defendant was convicted in any proceeding pursuant to this chapter. For the purposes of this chapter, a conviction may result from a verdict or plea, including a no contest plea, or deferred acceptance of guilty plea, or no contest plea.

(4) In any judicial forfeiture proceeding pursuant to this chapter, if a defense is based on an exemption provided for in this chapter, the burden of proving the existence of the exemption is on the claimant or party raising the defense, and it is not necessary to negate the exemption in any petition, application, complaint, or indictment.

(5) The court shall receive and consider, at any hearing held pursuant to this chapter, except the hearing on claims pursuant to § -12, subsections (4) through (8) and § -13, section (7), evidence and information which would be admissible under the rules of penal procedure relating to preliminary hearings.

(6) All property, including all interest in such property, declared forfeited under this chapter vests in this state on the commission of the act or omission giving rise to forfeiture under this chapter together with the proceeds of the property after such time. Any such property or proceeds subsequently transferred to any person are subject to forfeiture and thereafter shall be ordered forfeited unless the transferee claims and establishes in a hearing pursuant to this chapter the showings set out in § -5(2).

§ -12 Judicial in rem forfeiture proceedings. (1) If a forfeiture is authorized by law, it shall be ordered by a court on an action in rem brought by the prosecuting attorney on a verified petition for forfeiture filed in the criminal or civil division of the circuit court.

(2) A civil in rem action may be brought in addition to or in lieu of the civil and criminal in personam forfeiture procedures set forth in §§ -13 and -14 or the administrative forfeiture as set forth in § -10. Judicial in rem forfeiture proceedings are in the nature of an action in rem and are governed by the rules of civil procedure whether brought in the criminal or civil division of the circuit court, unless a different procedure is provided by law.

(3) On the filing of a civil in rem action by the state in circuit court the clerk of the court in which the action is filed shall provide, and the attorney for

the state may provide, the notice of pending forfeiture required by § -8 unless the files of the clerk of the court reflect that such notice has previously been made.

(4) An owner of or interest-holder in the property may file a claim against the property, within thirty days after the notice, for a hearing to adjudicate the validity of the claimed interest in the property. The hearings shall be held by the court without a jury.

(5) The claims shall be signed by the claimant and notarized under penalty of perjury and shall set forth all the following:

- (a) The name of the claimant;
- (b) The address at which the claimant will accept future mailings from the court or attorney for the state;
- (c) The nature and extent of the claimant's interest in the property;
- (d) The time, transferor and circumstances of the claimant's acquisition of the interest in the property;
- (e) The specific provisions of this chapter relied on in asserting that the property seized for forfeiture is not subject to forfeiture;
- (f) All facts supporting each such assertion;
- (g) Any additional facts supporting the claimant's claim; and
- (h) The precise relief sought.

Copies of the claim shall be mailed to the seizing agency and to the prosecuting attorney. No extension of time for the filing of a claim may be granted.

(6) The hearing on the claim, to the extent practicable and consistent with the interest of justice, shall be held within sixty days after the filing of the petition. The court may consolidate the hearing on the claim with a hearing on any other claim concerning the same property.

(7) At the hearing, the claimant may testify, present evidence and witnesses on the claimant's behalf, and cross-examine witnesses who appear at the hearing. The State may present evidence and witnesses in rebuttal and in defense of its claim to the property and cross-examine witnesses who appear at the hearing.

(8) The State has the initial burden of showing the existence of probable cause for seizure of the property. On such a showing by the state, the claimant has the burden of showing by a preponderance of the evidence that the claimant's interest in the property is not subject to forfeiture.

(9) In accordance with its findings at the hearing, the court shall order an interest in property returned or conveyed to the claimant, if any, who has established by a preponderance of the evidence that the claimant's interest is not subject to forfeiture. The court shall order all other property, including all interests in the property, forfeited to the state and proceed pursuant to § -15 and -16.

§ -13 Judicial in personam forfeiture proceedings. (1) If a forfeiture is authorized by law, it shall be ordered by a court on a petition for forfeiture filed by the prosecuting attorney in personam civil or criminal action.

(2) In any proceeding pursuant to this section, the court, on application of the prosecuting attorney, may enter any order authorized by § -11 or take any other action to seize, secure, maintain or preserve the availability of property subject to forfeiture under this chapter, including a warrant for its seizure, whether before or after the filing of a petition for forfeiture, complaint, or indictment.

(3) A temporary restraining order under this section may be entered on petition of the state without notice or an opportunity for a hearing if the state demonstrates that:

- (a) There is probable cause to believe that the property with respect to which the order is sought would, in the event of final judgment or conviction, be subject to forfeiture; and

- (b) Provision of notice will jeopardize the availability of the property subject to forfeiture.

A temporary restraining order expires within ten days after the date on which it is entered unless the party against whom it is entered consents to an extension for a longer period or unless after commencing a hearing the court enters or is considering a preliminary injunction.

(4) Notice of the issuance of the temporary restraining order and an opportunity for a hearing shall be afforded to persons known to have an interest in the property. The hearing, however, is limited to the issues required to be demonstrated in paragraphs 3(a) and (b) of this section.

(5) A hearing requested by any owner or interest-holder concerning a temporary restraining order entered under this section shall be held at the earliest practicable time and before the expiration of a temporary order.

(6) On a determination of liability or the conviction of a person for conduct giving rise to forfeiture under this title, the court shall enter a judgment of forfeiture of the property described in the petition for forfeiture, and shall also authorize the prosecuting attorney or attorney general, their agents or any other law enforcement officer to seize all property ordered forfeited that was not previously seized or is not then under seizure. Following the entry or an order declaring the property forfeited, the court, on application of the State, may enter any order authorized by § -11 or take any other action to protect the interest of the state or a political subdivision in the property ordered forfeited. The filing of the order of forfeiture in the appropriate public records perfects the interest of the state in the property described in the order as of the date that a notice of pending forfeiture or racketeering lien was first filed in the records, which entitles the state to all rights of a secured party as to that property in addition to any other rights or remedies of the State in relation to the property. Any income accruing to, or derived from, an enterprise or any interest in an enterprise or other property interest that is forfeited under this chapter is also forfeited from the time of the conduct giving rise to forfeiture. Such income may be used pending procedures subsequent to a verdict or finding of liability to offset ordinary and necessary expenses of the enterprise or property as required by law or that are necessary to protect the interests of the state or a political subdivision.

(7) Procedures subsequent to the verdict or finding of liability and order of forfeiture shall be as follows:

- (a) Following the entry of an order of forfeiture, the clerk of the court shall give notice of pending forfeiture to owners and interest-holders who have not previously been given notice, if any, in the manner provided in § -8;
- (b) Any owner or interest-holder, other than a party or a defendant in the underlying in personam action, asserting an interest in property that has been ordered forfeited pursuant to such action, within thirty days after initial notice of pending forfeiture or after notice under paragraph (a) of this subsection, whichever is earlier, may file a claim as described in subsection -12(5), in the court for a hearing to adjudicate the validity of the person's claimed interest in the property;
- (c) The hearing on the claim, to the extent practicable and consistent with the interest of justice, shall be held within sixty days after the order of forfeiture. The court may consolidate the hearing on the claim with a hearing on any other claim filed by a person other than a party or defendant in the underlying action and concerning the same property;
- (d) The hearing shall be conducted in the manner provided for in rem judicial forfeiture actions including the provisions of § -12, subsections (7) and (8). In addition to testimony and evidence presented at

the hearing, the court shall consider the relevant portions of the record of the underlying civil or criminal action that resulted in the order of forfeiture; and

- (e) In accordance with its findings at the hearing, the court may amend the order of forfeiture if it determines that any claimant has established by a preponderance of the evidence that the claimant has a legal interest in the property, and the claimant's interest is property designated as not subject to forfeiture by § -5.

(8) Except as provided in subsection -11(2) and paragraph (7)(b) of this section, a person claiming an interest in property subject to forfeiture under this section may not:

- (a) Intervene in a trial or an appeal of a criminal or in personam civil case involving the forfeiture of such property; or
- (b) Commence or maintain any action against the state concerning the validity of the alleged interest other than as provided in this chapter.

(9) In order to facilitate the identification or location of property declared forfeited and to facilitate the disposition of filed or subsequent claims pursuant to this section the court, on application of the state, may order that the testimony of any witness relating to the property forfeited or alleged to be subject to forfeiture be taken by deposition and that any designated book, paper, document, record, recording, electronic or otherwise, or other material which is not privileged be produced at the same time and place and in the same manner as that provided for the taking of depositions under the rules of civil procedure.

§ -14 Supplemental remedies. (1) The court shall order the forfeiture of any other property of an in personam civil or criminal defendant up to the value of the subject property if any of the property subject to forfeiture:

- (a) Cannot be located;
- (b) Has been transferred or conveyed to, sold to, or deposited with a third party;
- (c) Has been placed beyond the jurisdiction of the court;
- (d) Has been substantially diminished in value by any act or omission of a defendant, or a defendant's agent or assignee; or
- (e) Has been commingled with other property which cannot be divided without difficulty.

(2) In addition to any other remedy provided for by law, if property subject to forfeiture is conveyed, alienated, disposed of, or otherwise rendered unavailable for forfeiture after the filing of a racketeering lien notice or provision of notice of pending forfeiture or after the filing and notice of a civil proceeding or criminal proceeding alleging forfeiture under this chapter, whichever is earlier, the state or seizing agency, on behalf of the State, may institute an action in circuit court against the person named in the racketeering lien or notice of pending forfeiture or the defendant in the civil proceeding or criminal proceeding, and the court shall enter final judgment against the person named in the racketeering lien or notice of pending forfeiture or the defendant in the civil proceeding or criminal proceeding in an amount equal to the fair market value of the property, together with reasonable investigative expenses and attorney fees. If a civil proceeding is pending, such action shall be filed only in the court where the civil proceeding is pending.

(3) This section does not limit the right of the state to obtain any order or injunction, receivership, writ, attachment, garnishment, or other remedy authorized under this chapter or appropriate to protect the interests of the state or available under other applicable law.

§ -15 Disposition of claims by court. (1) Following the court's disposition of all claims filed under this chapter, or if no such claims are filed, following the

expiration of the period provided in this chapter for the filing of such claims, the state has clear title to property that is the subject of the in rem or in personam petition and the court shall so order. Title to the forfeited property and its proceeds is deemed to have vested in the state on the commission of the act or omission giving rise to the forfeiture.

(2) The court, on motion of the prosecuting attorney, may release or convey forfeited personal property to an interest-holder who has satisfied both the prosecuting attorney and the court that all of the following are true:

- (a) The interest-holder has an interest which was acquired in the regular course of business as a financial institution and which is not subject to forfeiture pursuant to § -5;
- (b) The amount of the interest-holder's encumbrance and the fair market value of the property are readily determinable and both amounts have been reasonable established by proof made available by the attorney for the state to the court;
- (c) There are no encumbrances on the property other than encumbrances held by the interest-holder seeking possession; and
- (d) The interest-holder has satisfied the State's interest by tendering the fair market value of the property and the expenses of its sale or disposal by the interest-holder.

(3) Upon order of the court forfeiting the subject property the attorney general may transfer good and sufficient title to any subsequent purchaser or transferee, and the title shall be recognized by all courts, by this State, and by all departments and agencies of this state and any political subdivision thereof.

(4) Upon entry of judgment for a claimant or claimants in any proceeding to forfeit property under this chapter such property or interest in property shall be returned or conveyed to the claimant or claimants designated by the court. If it appears that there was reasonable cause for the seizure for forfeiture or the filing of the complaint, the court shall cause a finding to be entered, and the claimant is not, in such case, entitled to costs or damages. Nor, in such case, is the person or seizing agency, or its agents, who made the seizure, or the prosecuting attorney or the attorney general liable to suit or judgment on account of such seizure, suit, or prosecution.

(5) The court shall order any claimant who fails to establish that the claimant's entire interest is exempt from forfeiture under § -5 to pay the costs of any claimant who establishes that the entire interest is exempt from forfeiture under § -5, and the State's costs and expenses of the investigation and prosecution of the matter, including reasonable attorney fees.

§ -16 Disposition of property forfeited. (1) All property forfeited to the state under this chapter shall be transferred to the attorney general who:

- (a) May transfer property, other than currency, which shall be distributed in accordance with subsection (2) of this section, to any local or state government entity, municipality, or law enforcement agency within the State;
- (b) May sell forfeited property to the public by public sale;
- (c) May sell or destroy all raw materials, products, and equipment of any kind used or intended for use in manufacturing, compounding, or processing a controlled substance;
- (d) May compromise and pay valid claims against property forfeited pursuant to this chapter; or
- (e) May make any other disposition of forfeited property authorized by law.

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(2) All forfeited property and the sale proceeds thereof, up to a maximum of three million dollars per year, not previously transferred pursuant to paragraph (1)(a) of this section, shall, after payment of expenses of administration and sale, be distributed as follows:

- (a) One quarter shall be distributed to the unit or units of state or local government who¹ officers or employees conducted the investigation and caused the arrest of the person whose property was forfeited or seizure of the property for forfeiture;
- (b) One quarter shall be distributed to the prosecuting attorney who instituted the action producing the forfeiture; and
- (c) One half shall be deposited into the criminal forfeiture fund established by this chapter.

(3) Property and money distributed to units of State and local government shall be used for law enforcement purposes, and shall complement but not supplant the funds regularly appropriated for such purposes.

(4) There is established in the department of the attorney general a revolving fund to be known as the criminal forfeiture fund, hereinafter referred to as the "fund" in which shall be deposited one-half of the proceeds of a forfeiture. All monies in the fund shall be expended by attorney general¹ and are hereby appropriated for the following purposes:

- (a) The payment of any expenses necessary to seize, detain, appraise, inventory, safeguard, maintain, advertise, or sell property seized, detained, or forfeited pursuant of this chapter or of any other necessary expenses incident to the seizure, detention, or forfeiture of such property and such contract services and payments to reimburse any federal, state, or county agency for any expenditures made to perform the foregoing functions;
- (b) The payment of awards for information or assistance leading to a civil or criminal proceeding under this chapter;
- (c) The payment of supplemental sums to state and county agencies for law enforcement purposes; and
- (d) The payment of expenses arising in connection with programs for training and education of law enforcement officers.

(5) The attorney general may, without regard to the requirements of chapter 91, promulgate rules and regulations concerning the disposition of property, the use of the fund, and compromising and paying valid claims against property forfeited pursuant to this chapter.

(6) The attorney general shall annually provide to the legislature an accounting of the fund, all forfeited properties, the sale proceeds thereof, and the allocation of monies to any agency pursuant to this section during the fiscal year preceding the legislative session.

§ -17 Limitation of Actions. Notwithstanding any other provision of law, forfeiture proceedings under this chapter may be commenced at any time within the period in which a criminal proceeding may be instituted for a covered offense pursuant to §701-108.

§ -18 Victim Restitution. Nothing herein precludes a court from ordering restitution or reparation to a victim by the defendant as part of a sentence imposed for a violation of a covered offense. The state shall not be compelled to provide funds for victim restitution or reparation under this chapter.

§ -19 Construction. It is the intent of the legislature that this chapter be liberally construed so as to effect the purposes of this chapter.

§ -20 Short title. This chapter may be cited as the "Hawaii omnibus criminal forfeiture act." "

SECTION 2. Section 842-3, Hawaii Revised Statutes, is amended to read as follows:

§842-3 Penalty; forfeiture of property. Whoever violates this chapter shall be guilty of a class B felony and shall be fined not more than \$10,000, or sentenced to an indeterminate term of imprisonment of ten years without possibility of suspension of sentence or probation, and shall forfeit to the State any interest or property [he has] acquired or maintained in violation of this chapter[.] as provided in chapter

[Upon conviction of a person under this chapter, the circuit court shall authorize the county attorney or prosecutor, or the attorney general, to seize all property or other interest declared forfeited under this chapter upon such terms and conditions as the court shall deem proper. The State shall dispose of all property or other interest seized under this chapter as soon as feasible making due provision for the rights of innocent persons. If a property right or other interest is not exercisable or transferable for value by the State, it shall expire, and shall not revert to the convicted person.]'

SECTION 3. Section 329-55 is amended to read as follows:

"§329-55 Forfeitures. (a) The following are subject to forfeiture:

- (1) All controlled substances which have been manufactured, cultivated, grown, distributed, dispensed, or acquired in violation of this chapter;
- (2) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, cultivating, growing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter;
- (3) All property which is used, or intended for use, as a container for property described in paragraph (1) or (2);
- (4) All conveyances, including aircraft, vehicles, or vessels which are used or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale, delivery or receipt of property described in paragraph (1) or (2), [but:
 - (A) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;
 - (B) No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without the owner's knowledge or consent; and
 - (C) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission;] subject to the provisions of chapter ;
- (5) All books, records, and research products and materials, including formulas, microfilms, tapes, and data which are used, or intended for use, in violation of this chapter;

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(6) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this chapter, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this chapter, [except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.] subject to the provisions of chapter.

(7) All firearms which are visible, carried during, or used in furtherance of a violation of this chapter or chapter 712, part IV.

(b) Property subject to forfeiture under this chapter may be seized [by the department upon process issued by any circuit court having jurisdiction over the property; provided that any county may, in addition to the department, seize motor vehicles under subsection (a)(4). Seizure without process may be made if:

- (1) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;
- (2) The property subject to seizure has been the subject of a prior judgment in favor of the State in a criminal injunction or forfeiture proceeding based upon this chapter;
- (3) The department or a county has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or
- (4) The department or a county has probable cause to believe that the property was used or is intended to be used in violation of this chapter.] in accordance with the provisions of chapter.

(c) In the event of the seizure of property described in subsection (a)(1) to (7), pursuant to subsection (b), proceedings under subsection (d) shall be instituted promptly. When property is seized under this chapter, the department shall report the fact of the seizure within ten days thereof to the prosecuting attorney of the county where the seizure was made. Within thirty days of the notification of the seizure, the prosecuting attorney shall cause to be filed in the circuit court in the county in which the property was seized, an action in rem, petitioning the court for forfeiture of the property. Upon the filing of the action, the court shall order the department to hold the property for further order of the court, and shall order that the owner of the seized property be served with notice of action. Notice of such action shall be made promptly in person, by registered mail, or by publication in accordance with section 634-23. At the expiration of twenty days after such filing, if no claimant has appeared, the court shall order the property forfeited to the State, to be disposed of by the department in a manner consistent with subsection (e).

If a claimant¹ is made in response to the petition for forfeiture within the twenty-day period, the court shall schedule a hearing, at which time the State shall prove by preponderance of evidence that the property was used, intended to be used, furnished, or acquired in violation of this chapter. At the conclusion of such hearing, the court shall order the property forfeited to the State; provided that if any claimant proves the claimant's right to an exception under subparagraph¹ (a)(4)(A), (B), or (C) the court shall order the return of the property or such portion of the property that is proved to be encumbered, to the bona fide owner, lienholder, or mortgagee.

(d) Property, as described in subsection (a)(1) to (7), taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody of the seizing authority subject only to the orders and decrees of the court having jurisdiction over the forfeiture proceedings. When such property is seized under this chapter, the seizing authority may:

- (1) Place such property under seal;
- (2) Remove such property to a place designated by it; or
- (3) Require the sheriff to take custody of such property and remove it to an appropriate location for disposition in accordance with law.

If a county seizes property under subsection (a)(4) it shall immediately notify the department of the seizure, and shall relinquish the seized property to the department upon its request therefor. In the event the property is forfeited and the department does not request the property seized by the county, the property shall be disposed of by the county in a manner consistent with subsection (e).

- (e) When property is forfeited under this chapter the department may:
 - (1) Retain the property or transfer it to the county and authorize its use in the enforcement of this chapter;
 - (2) Sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds shall be used for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising¹ and court costs;
 - (3) Require the sheriff to take custody of the property and remove it for disposition in accordance with law; or
 - (4) Forward it to the bureau for disposition.

(f) (c) Controlled substances listed in Schedule I that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and shall be seized and summarily forfeited to the State. Controlled substances listed in Schedule I, which are seized or come into the possession of the State, the owners of which are unknown, are contraband and shall be summarily forfeited to the State.

[g)] (d) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the State.

[h)] (e) The failure, upon demand by the department, or its authorized agent, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored, to produce an appropriate registration, or proof that the person is the holder thereof, constitutes authority for the seizure and forfeiture of the plants."

SECTION 4. Section 701-119 is repealed.

SECTION 5. Severability. If any provision of this Act or the application thereof to any person or circumstance is invalid, such invalidation shall 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 declared to be severable.

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored.²

SECTION 7. This Act shall take effect upon its approval; provided that on July 1, 1990, this Act shall be repealed and sections 842-3, 329-55, and 701-119, Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day before the approval of this Act; provided further that the repeal of this Act shall not affect the rights and duties that matured, penalties that were incurred, property seizures that have been initiated, and properties that have been forfeited pursuant to this Act, and such rights, duties, penalties, seizures and forfeitures shall be determined and adjudicated in accordance with the provisions of this Act.

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(Approved June 9, 1988.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

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H.B. NO. 6

A Bill for an Act Relating to Rights of Victims and Witnesses in Criminal Proceedings.

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 RIGHTS OF VICTIMS AND WITNESSES IN CRIMINAL PROCEEDINGS”

§ -1 Legislative intent. In recognition of the civic and moral duty of victims and witnesses of crimes to cooperate fully and voluntarily with law enforcement and prosecutorial agencies, and in further recognition of the continuing importance of such citizen cooperation to state and local law enforcement efforts and the general effectiveness and well-being of the criminal justice system of this State, the Legislature declares its intent, in this chapter, to ensure that all victims and witnesses of crimes are treated with dignity, respect, courtesy, and sensitivity and that the rights extended in this chapter to victims and witnesses of crime are honored and protected by law enforcement agencies, prosecutors, and judges in a manner no less vigorous than the protections afforded criminal defendants.

§ -2 Definitions. In this chapter:

“Crime” means an act or omission committed by an adult or juvenile that would constitute an offense against the person under the penal code of this State.

“Homicide victim” means a person whose death was caused by another person under part II of chapter 707.

“Major developments” means arrest or release of the suspect by the police, case deferral by the police, referral to the prosecutor by the police, rejection of the case by the prosecutor, preliminary hearing date, grand jury date, trial and sentencing dates, and the disposition of the case.

“Surviving immediate family members” means surviving grandparents, parents, siblings, spouse, children, and any legal guardian of the homicide victim.

“Victim” means a person against whom a crime has been committed by either an adult or a juvenile.

“Witness” means a person whose testimony or knowledge is desired in any proceeding or investigation by a grand jury or in a criminal investigation, action, prosecution, or proceeding.

§ -3 Eligibility of victims. A victim has the rights afforded by this chapter and is eligible for the services under this chapter only if the victim reported the crime to police within three months of its occurrence or discovery, unless he had justification to do otherwise.

§ -4 Basic bill of rights for victims and witnesses. Upon written request, victims and surviving immediate family members of crime shall have the following rights:

- (1) To be informed by the police and the prosecuting attorney of the final disposition of the case. If the crime charged is a felony, the victim or a surviving immediate family member shall be notified of major developments in the case and whenever the defendant or perpetrator is released from custody. The victim or a surviving immediate family member shall also be consulted and advised about plea bargaining by the prosecuting attorney.
- (2) To be notified by the prosecuting attorney if a court proceeding to which they have been subpoenaed will not proceed as scheduled.
- (3) To receive protection from threats or harm in accordance with the Hawaii Witness and Security Protection Act program guidelines.
- (4) To be informed by the police, victim/witness counselor, or other criminal justice personnel, of financial assistance and other social services available as a result of being a witness or a victim of crime, including information on how to apply for the assistance and services.
- (5) To be provided by the court, whenever possible, with a secure waiting area during court proceedings that does not require them to be in close proximity to defendants and families and friends of defendants.
- (6) To have any stolen or other personal property expeditiously returned by law enforcement agencies when such property is no longer needed as evidence. If feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis, and property, the ownership of which is disputed, shall be returned to the person within ten days of being taken.

§ -5 Responsibility for rights and services. (a) Each county is responsible for the enforcement of rights under section -4. The courts shall fashion all decisions and orders to enhance the recognition of these rights and the provision of these services, to the extent that they will not conflict with the constitutional rights of the defendant.

(b) Neither the failure of any State or county officer or employee to carry out the requirements of this section nor compliance with it shall subject the State or county officer or employee to liability in any civil action. However, such failure may provide a basis for such disciplinary action as may be deemed appropriate by competent authority.

§ -6 Intergovernmental cooperation. The county prosecutor, the police, local social service agencies, the courts, and all other agencies involved in the criminal justice system shall all cooperate with each other to ensure that victims and witnesses of crime receive the rights and services to which they are entitled under this chapter."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 9, 1988.)

A Bill for an Act Relating to Public Records.

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 INFORMATION PRACTICES ACT (MODIFIED)

PART I. GENERAL PROVISIONS AND DEFINITIONS

§ -1 Short title. This chapter shall be known and may be cited as the Uniform Information Practices Act (Modified).

§ -2 Purposes; rules of construction. In a democracy, the people are vested with the ultimate decision-making power. Government agencies exist to aid the people in the formation and conduct of public policy. Opening up the government processes to public scrutiny and participation is the only viable and reasonable method of protecting the public's interest. Therefore the legislature declares that it is the policy of this State that the formation and conduct of public policy—the discussions, deliberations, decisions, and action of government agencies—shall be conducted as openly as possible.

The policy of conducting government business as openly as possible must be tempered by a recognition of the right of the people to privacy, as embodied in section 6 and section 7 of Article I of the Constitution of the State of Hawaii.

This chapter shall be applied and construed to promote its underlying purposes and policies, which are to:

- (1) Promote the public interest in disclosure;
- (2) Provide for accurate, relevant, timely, and complete government records;
- (3) Enhance governmental accountability through a general policy of access to government records;
- (4) Make government accountable to individuals in the collection, use, and dissemination of information relating to them; and
- (5) Balance the individual privacy interest and the public access interest, allowing access unless it would constitute a clearly unwarranted invasion of personal privacy.

§ -3 General definitions. Unless the context otherwise requires, in this chapter:

“Agency” means any unit of government in this State, any county, or any combination of counties; department; institution; board; commission; district; council; bureau; office; governing authority; other instrumentality of state or county government; or corporation or other establishment owned, operated, or managed by or on behalf of this State or any county, but does not include the non-administrative functions of the courts of this State.

“Government record” means information maintained by an agency in written, auditory, visual, electronic, or other physical form.

“Individual” means a natural person.

“Person” means an individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.

“Personal record” means any item, collection, or grouping of information about an individual that is maintained by an agency. It includes, but is not limited to, the individual's education, financial, medical, or employment history, or items that contain or make reference to the individual's name, identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

PART II. FREEDOM OF INFORMATION

§ -11 Affirmative agency disclosure responsibilities. (a) All government records are open to public inspection unless access is restricted or closed by law.

(b) Except as provided in section -13, each agency upon request by any person shall make government records available for inspection and copying during regular business hours.

(c) Unless the information is readily retrievable by the agency in the form in which it is requested, an agency shall not be required to prepare a compilation or summary of its records.

(d) Each agency shall assure reasonable access to facilities for duplicating records and for making memoranda or abstracts.

(e) Each agency may adopt rules, pursuant to chapter 91, to protect its records from theft, loss, defacement, alteration, or deterioration and to prevent manifestly excessive interference with the discharge of its other lawful responsibilities and functions.

§ -12 Disclosure required. (a) Any provision to the contrary notwithstanding each agency shall make available for public inspection and duplication during regular business hours:

- (1) Rules of procedure, substantive rules of general applicability, statements of general policy, and interpretations of general applicability adopted by the agency;
- (2) Final opinions, including concurring and dissenting opinions, as well as orders made in the adjudication of cases;
- (3) Government purchasing information including all bid results except to the extent prohibited by section -13;
- (4) Pardons and commutations, as well as directory information concerning an individual's presence at any correctional facility;
- (5) Land ownership, transfer, and lien records, including real property tax information and leases of state land;
- (6) Results of environmental tests;
- (7) Minutes of all agency meetings required by law to be public;
- (8) Name, address, and occupation of any person borrowing funds from a state or county loan program, and the amount, purpose, and current status of the loan;
- (9) Certified payroll record on public works contracts;
- (10) Regarding contract hires and consultants employed by agencies; the contract itself, the amount of compensation, the duration of the contract, and the objectives of the contract;
- (11) Building permit information within the control of the agency;
- (12) Water service consumption data maintained by the boards of water supply;
- (13) Rosters of persons holding licenses or permits granted by an agency which may include name, business address, type of license held, and status of the license;
- (14) The name, compensation (or salary range for employees covered by chapters 76 and 77), job title, business address, business telephone number, job description, education and training background, previous work experience, and dates of first and last employment of present or former officers or employees of the agency, provided that this provision shall not require the creation of a roster of employees;

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- (15) Information collected and maintained for the purpose of making information available to the general public; and
 - (16) Information contained in or compiled from a transcript, minutes, report, or summary of a proceeding open to the public.
- (b) Any provision to the contrary notwithstanding, each agency shall also disclose:
- (1) Any government record, if the requesting person has the prior written consent of all individuals to whom the record refers;
 - (2) Government records which, pursuant to federal law or a statute of this State, are expressly authorized to be disclosed to the individual requesting access;
 - (3) Government records pursuant to a showing of compelling circumstances affecting the health or safety of any individual;
 - (4) Government records requested pursuant to an order of a court;
 - (5) Government records pursuant to a subpoena from either house of the state legislature; and
 - (6) Information from the motor vehicle registration files, provided that the person requesting such files shall have a legitimate reason as determined by rules.

§ -13 Government records; exceptions to general rule. This chapter shall not require disclosure of:

- (1) Government records which, if disclosed, would constitute a clearly unwarranted invasion of personal privacy;
- (2) Government records pertaining to the prosecution or defense of any judicial or quasi-judicial action to which the State or any county is or may be a party, to the extent that such records would not be discoverable;
- (3) Government records that, by their nature, must be confidential in order for the government to avoid the frustration of a legitimate government function;
- (4) Government records which, pursuant to State or federal law including an order of any State or federal court, are protected from disclosure; and
- (5) Inchoate and draft working papers of legislative committees including budget worksheets and unfiled committee reports; work product; records or transcripts of an investigating committee of the legislature which are closed by rules adopted pursuant to section 21-4 and the personal files of members of the legislature.

§ -14 Clearly unwarranted invasion of personal privacy. (a) Disclosure of a government record shall not constitute a clearly unwarranted invasion of personal privacy if the public interest in disclosure outweighs the privacy interests of the individual.

(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 information relating to the status of any formal charges against the employee and disciplinary action taken or information disclosed under section -12(a)(14);
- (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 credit worthiness;
- (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; and
- (8) Information comprising a personal recommendation or evaluation.

§ -15 Judicial enforcement. (a) A person aggrieved by a denial of access to a government record may bring an action against the agency at any time to compel disclosure.

(b) In an action to compel disclosure the circuit court shall hear the matter de novo. Opinions and rulings of the office of information practices shall be admissible. The circuit court may examine the government record at issue, in camera, to assist in determining whether it, or any part of it, may be withheld.

(c) The agency has the burden of proof to establish justification for non-disclosure.

(d) If the complainant prevails in an action brought under this section, the court shall assess against the agency reasonable attorney's fees and all other expenses reasonably incurred in the litigation.

(e) The circuit court in the judicial circuit in which the request for the record is made, where the requested record is maintained, or where the agency's headquarters are located shall have jurisdiction over an action brought under this section.

(f) Except as to cases the circuit court considers of greater importance, proceedings before the court, as authorized by this section, and appeals therefrom, take precedence on the docket over all cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

§ -16 Immunity from liability. Anyone participating in good faith in the disclosure or nondisclosure of a government record shall be immune from any liability, civil or criminal, that might otherwise be incurred, imposed or result from such acts or omissions.

§ -17 Criminal penalties. (a) An officer or employee of an agency who intentionally discloses or provides a copy of a government record, or any confidential information explicitly described by specific confidentiality statutes, to any person or agency with actual knowledge that disclosure is prohibited, shall be guilty of a misdemeanor, unless a greater penalty is otherwise provided for by law.

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(b) A person who intentionally gains access to or obtains a copy of a government record by false pretense, bribery, or theft, with actual knowledge that access is prohibited, or who intentionally obtains any confidential information by false pretense, bribery, or theft, with actual knowledge that it is prohibited a confidentiality statute, shall be guilty of a misdemeanor.

§ -18 Agency implementation.

(a) Each agency shall:

- (1) Issue instructions and guidelines necessary to effectuate this chapter; and
- (2) Take steps to assure that all its employees and officers responsible for the collection, maintenance, use, and dissemination of government records are informed of the requirements of this chapter.

(b) Each agency shall compile a public report describing the records it routinely uses or maintains. The public reports shall be filed with the office of information practices and shall include:

- (1) The name and location of each set of records;
- (2) The authority under which the records are maintained;
- (3) The categories of individuals for whom records are maintained;
- (4) The categories of information or data maintained in the records;
- (5) The categories of sources of information in the records;
- (6) The categories of uses and disclosures made of the records;
- (7) The agencies and categories of persons outside of the agency which routinely use the records;
- (8) The records routinely used by the agency which are maintained by;
 - (A) Another agency; or
 - (B) A person other than an agency;
- (9) The policies and practices of the agency regarding storage, retrievability, access controls, retentions, and disposal of the information maintained in records;
- (10) The title, business address, and business telephone number of the agency officer or officers responsible for the records;
- (11) The agency procedures whereby an individual may request access to records; and
- (12) The number of written requests for access within the preceding year, the number denied, the number of lawsuits initiated against the agency under this part, and the number of suits in which access was granted.

§ -19 Limitations on disclosure of government records to other agencies.

(a) No agency may disclose or authorize disclosure of government records to any other agency unless the disclosure is:

- (1) Compatible with the purpose for which the information was collected or obtained;
- (2) Consistent with the conditions or reasonable expectations of use and disclosure under which the information was provided;
- (3) Reasonably appears to be proper for the performance of the requesting agency's duties and functions;
- (4) To the state archives for purposes of historical preservation, administrative maintenance, or destruction;
- (5) To an agency or instrumentality of any governmental jurisdiction within or under the control of the United States, or to a foreign government if specifically authorized by treaty or statute, for a civil or criminal law enforcement investigation;

- (6) To the legislature or any committee or subcommittee thereof;
- (7) Pursuant to an order of a court of competent jurisdiction;
- (8) To authorized officials of a department or agency of the federal government for the purpose of auditing or monitoring an agency program that received federal monies;
- (9) To the offices of the legislative auditor, the legislative reference bureau, or the ombudsman of this State for the performance of their respective functions; or
- (10) Otherwise subject to disclosure under this chapter.

(b) An agency receiving government records pursuant to subsection (a) shall be subject to the same restrictions on disclosure of the records as the originating agency.

PART III. DISCLOSURE OF PERSONAL RECORDS

§ -21 Individual's access to own personal record. Each agency that maintains any accessible personal record shall make that record available to the individual to whom it pertains, in a reasonably prompt manner and in a reasonably intelligible form. Where necessary the agency shall provide a translation into common terms of any machine readable code or any code or abbreviation employed for internal agency use.

§ -22 Exemptions and limitations on individual access. An agency is not required by this chapter to grant an individual access to personal records, or information in such records:

- (1) Maintained by an agency that performs as its or as a principal function any activity pertaining to the prevention, control, or reduction of crime, and which consist of:
 - (A) Information which fits or falls within the definition of "criminal history record information" in section 846-1;
 - (B) Information or reports prepared or compiled for the purpose of criminal intelligence or of a criminal investigation, including reports or informers, witnesses, and investigators; or
 - (C) Reports prepared or compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through confinement, correctional supervision, and release from supervision.
- (2) The disclosure of which would reveal the identity of a source who furnished information to the agency under an express or implied promise of confidentiality.
- (3) Consisting of testing or examination material or scoring keys used solely to determine individual qualifications for appointment or promotion in public employment, or used as or to administer a licensing examination or an academic examination, the disclosure of which would compromise the objectivity, fairness, or effectiveness of the testing or examination process.
- (4) Including investigative reports and materials, related to an upcoming, ongoing, or pending civil or criminal action or administrative proceeding against the individual.
- (5) Required to be withheld from the individual to whom it pertains by statute or judicial decision or authorized to be so withheld by constitutional or statutory privilege.

§ -23 Access to personal record; initial procedure. Upon the request of an individual to gain access to the individual's personal record, an agency shall

permit the individual to review the record and have a copy made within ten working days following the date of the request unless the personal record requested is exempted under section -22. The ten-day period may be extended for an additional twenty working days if the agency provides to the individual, within the initial ten working days, a written explanation of unusual circumstances causing the delay.

§ -24 Right to correct personal record; initial procedure. (a) An individual has a right to have any factual error in that person's personal record corrected and any misrepresentation or misleading entry in the record amended by the agency which is responsible for its maintenance.

(b) Within twenty business days after receipt of a written request to correct or amend a personal record and evidence that the personal record contains a factual error, misrepresentation, or misleading entry, an agency shall acknowledge receipt of the request and purported evidence in writing and promptly:

- (1) Make the requested correction or amendment; or
- (2) Inform the individual in writing of its refusal to correct or amend the personal record, the reason for the refusal, and the agency procedures for review of the refusal.

§ -25 Access and correction; review procedures. (a) Not later than thirty business days after receipt of request for review of an agency refusal to allow access to, or correction or amendment of, a personal record, the agency shall make a final determination.

(b) If the agency refuses upon final determination to allow access to, or correction or amendment of, a personal record, the agency shall so state in writing and:

- (1) Permit, whenever appropriate, the individual to file in the record a concise statement setting forth the reasons for the individual's disagreement with the refusal of the agency to correct or amend it; and
- (2) Notify the individual of the applicable procedures for obtaining appropriate judicial remedy.

§ -26 Rules. Each agency shall adopt rules, under chapter 91, establishing procedures necessary to implement or administer this part.

Such procedures and rules, subject to the direction of and review by the attorney general in the case of state agencies and by the corporation counsel or county attorney of each county in the case of county agencies, shall be uniform, insofar as practicable, respectively, among state agencies and among the county agencies of each county.

§ -27 Civil actions and remedies. (a) An individual may bring a civil action against an agency in a circuit court of the State whenever an agency fails to comply with any provision of this part, and after appropriate administrative remedies under sections -23, -24, and -25 have been exhausted.

(b) In any action brought under this section the court may order the agency to correct or amend the complainant's personal record, to require any other agency action, or to enjoin such agency from improper actions as the court may deem necessary and appropriate to render substantial relief.

(c) In any action brought under this section in which the court determines that the agency knowingly or intentionally violated a provision of this part, the agency shall be liable to the complainant in an amount equal to the sum of:

- (1) Actual damages sustained by the complainant as a result of the failure of the agency to properly maintain the personal record, but in no case shall a complainant (individual) entitled to recovery receive less than the sum of \$1,000; and

(2) The costs of the action together with reasonable attorney's fees as determined by the court.

(d) The court may assess reasonable attorney's fees and other litigation costs reasonably incurred against the agency in any case in which the complainant has substantially prevailed, and against the complainant where the charges brought against the agency were frivolous.

(e) An action may be brought in the circuit court where the complainant resides, the complainant's principal place of business is situated, or the complainant's relevant personal record is situated. No action shall be brought later than two years after the date of the cause of action, which shall be the date of the last written communication to the agency requesting compliance.

§ -28 Access to personal records by order in judicial or administrative proceedings; access as authorized or required by other law. Nothing in this part shall be construed to permit or require an agency to withhold or deny access to a personal record, or any information in a personal record:

(1) When the agency is ordered to produce, disclose, or allow access to the record or information in the record, or when discovery of such record information is allowed by prevailing rules of discovery or by subpoena, in any judicial or administrative proceeding; or

(2) Where any statute, administrative rule, rule of court, judicial decision, or other law authorizes or allows an individual to gain access to a personal record or to any information in a personal record or requires that the individual be given such access.

PART IV. OFFICE OF INFORMATION PRACTICES; DUTIES

§ -41 Office of information practices. (a) There shall be within the department of the attorney general an office of information practices.

(b) The governor shall appoint, not subject to chapters 76 and 77, a director of the office of information practices who is its chief executive officer.

(c) All powers and duties of the office of information practices are vested in the director and may be delegated to any other officer or employee of the office.

(d) The director may employ such other personnel as are necessary, including but not limited to attorneys and clerical staff. None of the employees shall be subject to chapters 76 or 77.

§ -42 Powers and duties of the office of information practices. (a) The director of the office of information practices:

- (1) Shall review and rule on an agency denial of access to information or records, or an agency's granting of access;
- (2) Upon request by an agency, shall provide and make public advisory guidelines, opinions, or other information concerning that agency's functions and responsibilities;
- (3) Upon request by any person, may provide advisory opinions or other information regarding that person's rights and the functions and responsibilities of agencies under this chapter;
- (4) May conduct inquiries regarding compliance by an agency and investigate possible violations by any agency;
- (5) May examine the records of any agency for the purpose of paragraph (4) and seek to enforce that power in the courts of this State;
- (6) May recommend disciplinary action to appropriate officers of an agency;

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- (7) Shall report annually to the governor and the state legislature on the activities and findings of the office of information practices, including recommendations for legislative changes;
- (8) Shall receive complaints from and actively solicit the comments of the public regarding the implementation of this chapter;
- (9) Shall review the official acts, records, policies, and procedures of each agency;
- (10) Shall assist agencies in complying with the provisions of this chapter;
- (11) Shall inform the public of the following rights of an individual and the procedures for exercising them:
 - (A) The right of access to records pertaining to the individual;
 - (B) The right to obtain a copy of records pertaining to the individual;
 - (C) The right to know the purposes for which records pertaining to the individual are kept;
 - (D) The right to be informed of the uses and disclosures of records pertaining to the individual;
 - (E) The right to correct or amend records pertaining to the individual; and
 - (F) The individual's right to place a statement in a record pertaining to that individual;
- (12) Shall adopt rules that set forth an internal appeals structure which provides for direct appeal from the division maintaining the record and time limits for action by agencies;
- (13) Shall adopt rules that set forth the fees and other charges that may be imposed for searching, reviewing, or segregating disclosable records as well as to provide for a waiver of such fees when the public interest would be served;
- (14) Shall adopt rules which set forth uniform standards for the records collection practices of agencies; and
- (15) Shall have standing to appear in cases where the provisions of this chapter are called into question."

SECTION 2. Chapter 89, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§89- Access to personal records by an employee organization. Exclusive representatives shall be allowed access to an employee's personal records which are relevant to the investigation or processing of a grievance. The exclusive representative shall not share or disclose the specific information contained in the personal records and shall notify the employee that access has been obtained."¹

SECTION 3. Chapter 92, part V, Hawaii Revised Statutes, is repealed.

SECTION 4. Chapter 92E, Hawaii Revised Statutes, is repealed.

SECTION 5. Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

SECTION 6. There is hereby appropriated out of the general revenues of the State of Hawaii, the sum of \$156,000, or so much thereof as may be necessary for fiscal year 1988-1989, for the office of information practices. The sum appro-

priated shall be expended by the department of the attorney general for the purposes of this Act.

SECTION 7. This Act shall take effect on July 1, 1989, except that Part IV of SECTION 1 and SECTION 6 of this Act shall take effect upon approval.

(Approved June 9, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

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S.B. NO. 546

A Bill for an Act Relating to Counties.

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

SECTION 1. The legislature concurs with Attorney General Opinion No. 87-1, dated March 3, 1987, that "repeal of the special and local laws pertaining to the powers of specific counties, as found in Chapters 61 through 70, Hawaii Revised Statutes, and their replacement with grants of general powers which would have uniform operation in all counties of the State will not violate Article VIII, Section 1, which requires that powers of political subdivisions be conferred under general laws. The purpose of this bill is to promote the uniformity by replacing special and local laws with grants of general powers that apply to all counties.

SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§46- General powers and limitation of the counties. Subject to general law, each county shall have the following powers and shall be subject to the following liabilities and limitations:

- (1) Each county shall have the power to frame and adopt a charter for its own self-government, which shall establish the county executive, administrative, and legislative structure and organization, including, but not limited to, the method of appointment or election of officials, their duties, responsibilities, and compensation, and the terms of their office.
- (2) Each county shall have the power to provide for and regulate the marking and lighting of all buildings and other structures which may be obstructions or hazards to aerial navigation, so far as may be necessary or proper for the protection and safeguarding of life, health, and property.
- (3) Each county shall have the power to enforce all claims on behalf of the county and approve all lawful claims against the county, but shall be prohibited from entering into, granting, or making in any manner any contract, authorization, allowance payment, or liability contrary to the provisions of any county charter or general law.
- (4) Each county shall have the power to make contracts and to do all things necessary and proper to carry into execution all powers vested in the county or any county officer.
- (5) Each county shall have the power to maintain channels, whether natural or artificial, including their exits to the ocean, in suitable condition to carry off storm waters; and to remove from the channels, and from the shores and beaches, any debris which is likely to create an unsan-

itary condition or to otherwise become a public nuisance; provided that to the extent any of the foregoing work is a private responsibility the responsibility may be enforced by the county in lieu of the work being done at public expense. Counties shall also have the power to construct, acquire by gift, purchase, or by the exercise of eminent domain, reconstruct, improve, better, extend, and maintain projects or undertakings for the control of and protection against floods and flood waters, including the power to drain and rehabilitate lands already flooded, and to enact zoning ordinances providing that lands deemed subject to seasonal or periodic, or occasional flooding shall not be used for residence or other purposes in such a manner as to endanger the health or safety of the occupants thereof, as required by the Federal Flood Insurance Act of 1956 (chapter 1025, Public Law 1016).

- (6) Each county shall have the power to exercise the power of condemnation by eminent domain when it is in the public interest to do so.
- (7) Each county shall have the power to exercise such regulatory powers over business activity as are assigned to them by chapter 445, or other general law.
- (8) Each county shall have the power to fix the fees and charges for all official services not otherwise provided for.
- (9) Each county shall have the power to provide by ordinance for the improvement or maintenance assessments of districts within the county.
- (10) Except as otherwise provided, each county shall have the power to, in any manner give or loan credit to, or in aid of, any person or corporation, and any indebtedness or liability incurred contrary to this paragraph shall be void.
- (11) Where not within the jurisdiction of the public utilities commission, each county shall have the power to regulate by ordinance the operation of motor vehicle common carriers transporting passengers within the county and adopt and amend such rules as the county deems necessary for the public convenience and necessity.
- (12) Each county shall have the power to enact and enforce ordinances necessary to prevent or summarily remove nuisances, and compel the clearing of refuse and uncultivated undergrowth from unoccupied lots, and in these connections impose and enforce liens upon the property for the cost to the county of completing the necessary work where the owners fail after reasonable notice to comply with the ordinances.
- (13) Each county shall have the power to enact ordinances deemed necessary to protect health, life, and property, and preserve the order and security of the county and its inhabitants on any subject or matter not inconsistent with, or tending to defeat, the intent of any state statute, provided also that the statute does not disclose or express an implied intent that the statute shall be exclusive or uniform throughout the State.
- (14) Each county shall have the power to make and enforce within the limits of the county all necessary ordinances covering all local police matters and all matters of sanitation, inspection of buildings, condemnation of unsafe structures, plumbing, sewers, dairies, milk, fish, and morgues, and the collection and disposition of rubbish and garbage, to appoint county physicians and such sanitary and other inspectors as may be necessary to carry into effect ordinances made under this paragraph, who shall have the same power as given by law to agents of the department of health, subject only to such limitations as may be placed on them by the terms and conditions of their appointments, and to fix a penalty for the violations of any ordinance, which penalty may be a

- misdemeanor, petty misdemeanor, or violation as defined by general law.
- (15) Each county shall have the power to provide public pounds, to regulate the impounding of stray animals and fowl, and their disposition, and to provide for the appointment, powers, duties, and fees of animal control officers.
- (16) Each county shall have the power to purchase and otherwise acquire, lease, and hold real and personal property within the defined boundaries of the county and to dispose of the real and personal property as the interests of the inhabitants of the county may require, except that any property held for school purposes may not be disposed of without the consent of the superintendent of education, that no property bordering the ocean shall be sold or otherwise disposed of, and that all proceeds from the sale of park lands shall be expended only for the acquisition of property for park or recreational purposes.
- (17) Each county shall have the power to provide by charter for the prosecution of all offenses and to prosecute for offenses against the laws of the State under the authority of the attorney general of the State.
- (18) Each county shall have the power to make appropriations in amounts deemed appropriate from any moneys in the treasury, for the purpose of community promotion and public celebrations, the entertainment of such distinguished persons as may from time to time visit the county, for the entertainment of other distinguished persons as well as public officials when deemed to be in the best interest of the community, and the rendering of civic tribute to individuals who, by virtue of their accomplishments and community service, merit civic commendations, recognition, or remembrance.
- (19) Each county shall have the power to:
- (A) Construct, purchase, take on lease, lease, sublease, or in any other manner acquire, manage, maintain, or dispose of buildings for county purposes, sewers, sewer systems, pumping stations, water works, including reservoirs, wells, pipelines, and other conduits for distributing water to the public, lighting plants, and apparatus and appliances for lighting streets and public buildings and manage, regulate, and control the same;
 - (B) Regulate and control the location and quality of all appliances necessary to the furnishing of water, heat, light, power, telephonic, and telegraphic service to the county; and
 - (C) Acquire, regulate, and control any and all appliances for the sprinkling and cleaning of the streets and the public ways and for flushing the sewers.
- (20) Each county shall have the power to regulate the renting, subletting, and rental conditions of property for places of abode by ordinance.
- (21) Unless otherwise provided by law, each county shall have the power to establish by ordinance the order of succession of county officials in the event of a military civil disaster.
- (22) Each county shall have the power to sue and be sued in its corporate name.
- (23) Each county shall have the power to establish and maintain water works and sewer works; to collect rates for water supplied to consumers and for the use of sewers; to install water meters whenever deemed expedient; provided that owners of premises having vested water rights under existing laws appurtenant to the premises shall not be charged for the installation or use of the water meters on the premises; to take

- over from the State existing water works systems, including water rights, pipelines, and other appurtenances belonging thereto, and sewer systems, and to enlarge, develop, and improve the same.
- (24) Each county may impose civil fines, in addition to criminal penalties, for any building or zoning code violation after reasonable notice and requests to correct the violation have been made upon the violator."

SECTION 3. Section 64-61, Hawaii Revised Statutes, is renumbered appropriately to read as follows:

"[§64-61] §323- Establishment of the Hilo Hospital. The Puumaile Hospital and the Hilo Memorial Hospital in the county of Hawaii are hereby combined into a single organization to be known as the "Hilo Hospital." "

SECTION 4. Section 65-11, Hawaii Revised Statutes, is renumbered appropriately to read as follows:

"[§65-11] §323- Kauai Veterans Memorial Hospital. There shall be at Waimea, Kauai, a hospital to be known as the Kauai Veterans Memorial Hospital. The hospital shall serve also as a health center for the county of Kauai and shall among its other functions conduct, insofar as its resources will permit, outpatient clinics for residents of Kauai in need of these services."

SECTION 5. Section 65-13, Hawaii Revised Statutes, is renumbered appropriately to read as follows:

"[§65-13] §323- Samuel Mahelona Memorial Hospital; public institution. The Samuel Mahelona Memorial Hospital is hereby designated to be and is established as a public institution."

SECTION 6. Section 66-11, Hawaii Revised Statutes, is renumbered appropriately to read as follows:

"[§66-11] §323- Maui Community Hospitals. Those institutions known as the Hana Medical Center and the Maui Memorial Hospital are hereby declared to constitute the Maui Community Hospitals."

SECTION 7. Section 70-111, Hawaii Revised Statutes, is renumbered appropriately to read as follows:

"[§70-111] §46- Public land or land exempt from taxation, etc.; cost otherwise assessable against borne by city and county. Whenever (1) any public land, except lands owned by the board of water supply, or (2) any land by law exempted from improvement assessments, or (3) any land exempted by law from payment of property taxes which land is owned by a society, association, or corporation engaged in religious, charitable, educational, scientific, literary, or other benevolent purposes, whose charter or other enabling act contains a provision that, in the event of dissolution, the land owned by such society, association, or corporation and herein exempted from assessments shall be distributed to another society, association, or corporation engaged in religious, charitable, educational, scientific, literary, or other benevolent purposes, forms part of any improvement district or fronts upon any street, alley, or other highway to be opened or improved or along which a storm drainage system or street lighting system is to be constructed or improved independently and would, if privately owned or not exempt from such

assessment, be subject to assessment, the city council shall, nevertheless, without assessing such public or exempted land for any part of the cost of such improvements, by general ordinance appropriate and pay toward such improvements out of general revenues the portion of the cost thereof which would otherwise be assessable against the same in a lump sum or, at the election of the council, in such equal installments and with such interest thereon as the council shall determine. In the event, however, any part or parts of such exempt lands as described in the preceding sentence, except public lands, may be required for right-of-way or easement purposes within such improvement districts the value thereof shall be chargeable to the improvement district, and upon acquisition the owner shall be compensated therefor in the following manner:

- (1) Where the value of the part taken together with any severance damages exceeds the portion of the cost of the improvements which would otherwise be assessable against the exempt land, the county shall pay the difference to the owner or owners;
- (2) Where the value is less than the portion of the cost of improvements which would otherwise be assessable against such exempt lands, the value of the land shall be deducted therefrom and the county shall pay the balance of the assessment as provided herein.

With respect to any proposed improvement where any part of the cost is thus to be borne by the city and county, the council shall have the same right of approval or protest as though the city and county were the private owner of the public or exempted land so involved. As to such expenditures for public and exempt lands, the city and county shall be entitled to be reimbursed out of state revenues by appropriations to be made from time to time by the legislature to the extent of fifty per cent of all assessments regularly apportioned against persons, corporations, or entities, which are part of any improvement district or frontage improvement and are exempted by law from the payment of such assessments. The city and county shall be entitled to be likewise reimbursed for the full amount of assessments regularly apportioned against public lands which are a part of any improvement district or frontage improvement, which public lands are owned in fee simple by the United States, or by the State, and which are not set aside for city and county parks, or for other city and county purposes or for street areas or frontages; provided that as to the University of Hawaii, Kapiolani park, including the Waikiki parks established by the laws of 1905, chapter 103, section 1, the city and county shall be entitled to full reimbursement for improvement assessments; and provided further that in case any land exempted by law from assessments as herein provided, other than public land, or any part thereof, is sold or leased after the establishment of a frontage improvement or an improvement district, the grantee, in the one case and the lessor in the other, shall assume the payment of assessments from the date of such sale or lease in the same manner as if the property had not been exempted from assessments and as if assessments proportionable against the property had been paid in installments to such date of sale or lease; and that all payments received from such grantee or lessor, as the case may be, shall be paid into the permanent improvement fund. Nothing in this section shall be taken to prejudice any rights of the State to reimbursement from the United States for assessments herein assumed by the State, but the latter shall be subrogated to the rights of the city and county on such assessments so assumed."

SECTION 8. Sections 70-121 and 70-122, Hawaii Revised Statutes, are renumbered appropriately and amended to read as follows:

"[§70-121] §46—Thomas Square; to be maintained. Thomas Square shall be maintained as a public park [and the city council of the city and county of Honolulu is prohibited from extending Young street through it].

[§70-122] §46— Ala Wai golf course. The fair commission of Hawaii is abolished and the functions and authority of the fair commission of Hawaii relating to the Ala Wai golf course are transferred to the city and county of Honolulu, together with the use and control of all lands, property, and facilities under its jurisdiction; provided that the lands, property, and facilities shall be used [solely] for the purposes of operating a municipal golf course; and provided further that the governor may by executive order transfer the use and control of the lands, property, and facilities to the appropriate department of the State designated by the governor upon the giving of one year's written notice before the date of the transfer back to the State to the city and county of Honolulu.”

SECTION 9. Section 265A-1, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§265A-1]] County authority.~~ The several councils or other governing bodies of the several political subdivisions of the State shall have the general supervision, charge, and control of, and the duty to maintain and repair, all county highways, bikeways, and sidewalks and shall have the power to determine the terms under which irrigation or drainage ditches, flumes, railroads, including plantation railroads and similar structures, telephone, electric light and power lines and pipes and other conduits may be maintained upon, under, over, and across the same, and the councils or other governing bodies may make all regulations needful for the public convenience and safety in all cases where permission has been or may be granted to maintain the ditches, railroads, pipes, or other structures across, under, over, and upon all county highways. Any other law to the contrary notwithstanding, the several counties by ordinance may take over, or receive by dedication or otherwise, any private street or way or may improve, grade, repair, or do any construction work upon private streets, ways, pavement, water lines, street lighting systems, or sewer repairs.”

SECTION 10. Section 326-34, Hawaii Revised Statutes, is amended to read as follows:

“§326-34 County of Kalawao [governed by department of health.]; governance. (a) The county of Kalawao shall consist of that portion of the island of Molokai known as Kalaupapa, Kalawao, and Waikolu, and commonly known or designated as the Kalaupapa Settlement, and shall not be or form a portion of the county of Maui, but is constituted a county by itself. As a county it shall have only the powers especially conferred and given by sections 326-34 to 326-38 and, except as provided in those sections, none of the provisions of the Hawaii Revised Statutes regarding counties shall be deemed to refer to or shall be applicable to the county of Kalawao.

(b) The county of Kalawao shall be under the jurisdiction and control of the department of health and be governed by the laws, and rules[, and regulations] relating to the department and the care and treatment of persons affected with Hansen's disease, except as otherwise provided by law.”

SECTION 11. Chapters 61, 62, 64, 65, 66, 67, and 70, Hawaii Revised Statutes, are repealed.

SECTION 12. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 13. This Act shall take effect upon its approval.

(Approved June 13, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 264

S.B. NO. 587

A Bill for an Act Relating to Bicycle and Moped Licenses.

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

SECTION 1. Section 249-14, Hawaii Revised Statutes, is amended to read as follows:

“§249-14 Bicycle and moped [tax.] fee. (a) [All bicycles and mopeds used for the conveyance of persons] Bicycles having two tandem wheels that are twenty inches or more in diameter and all mopeds are required to be registered and shall be subject to [an annual tax of \$3 each] a biennial registration fee of \$8, to be paid by the owners thereof to the director of finance.

(b) An owner of a bicycle having two tandem wheels that are less than twenty inches in diameter is not required to register such bicycle, but may do so to facilitate the return of recovered stolen bicycles by payment of the biennial fee. [This tax] The biennial registration fee shall become due and payable on January 1 and shall be delinquent on March 1 [of each year]; provided that any bicycle or moped initially acquired after [November 30] October 31 [of a calendar year], previously not registered, shall be exempt from [taxation] the biennial registration fee until January 1 of the next calendar year[,]; provided that the [tax] biennial registration fee for the next [calendar year] biennium shall be paid before January 1. The biennial registration of bicycles and mopeds shall expire on December 31 of the second year and may be renewed by the owners beginning November 1 of the second year. The fee collected shall not be refunded or prorated. Upon receipt of the [tax,] fee, the director of finance shall number and register each bicycle and moped for which the [tax] fee is paid, in the owner's name and furnish the owner with a metallic tag or decal for each bicycle or moped with number and year marked thereon, [charging therefor the sum of 10 cents,] which tag or decal shall be attached to the bicycle or moped. On bicycles the decal shall be affixed to the upright post attached to the sprocket facing in the forward direction. On mopeds the decal shall be affixed to the lower portion of the rear fender facing rearward. Upon initial registration by an owner or transferee, the director of finance shall require proof of ownership and require the owner to furnish verification of the serial number and description contained in the proof of ownership and application for registration. The metallic tags or decals shall be in such form as the director of finance shall from time to time prescribe. It shall be the duty of the [council] director of finance of each county to purchase a sufficient number of such tags or decals.

[b)] (c) All [taxes] fees collected under this section shall be deposited into the bikeway fund and shall be expended in the county in which the [taxes] fees are collected as provided in section 249-17.5.”

SECTION 2. Section 249-14.3, Hawaii Revised Statutes, is amended to read as follows:

“[§249-14.3][Exemption from [tax] fee and tag. Any bicycle [owned and] brought into the State [by any person] shall be exempt from [this chapter]

relative to] the payment of [taxes] fees and display of State of Hawaii bicycle tag for the remaining period [of the year] for which the taxes or fees have been paid on such bicycle [by the owner] in compliance with the law of the state or country [of the owner's residence, and shall display on the] from which it was brought, if the bicycle [the] displays a tag for the current year as required by the law of such state or country.”

SECTION 3. Section 249-14.5, Hawaii Revised Statutes, is amended to read as follows:

“§249-14.5 New bicycles and mopeds. All new bicycles and mopeds, otherwise [taxable] requiring the payment of fees under section 249-14, held in stock for purposes of sale shall be exempt from the [tax] fee. [herein provided for; provided that at] At the time of first sale, the dealer selling the new bicycle or moped shall:

- (1) Require the buyer to complete a license application [forms] form furnished by the director of finance;
- (2) Issue a copy of the completed [forms] form to the buyer; and
- (3) Transmit a copy of the completed [forms] form to the director of finance with the required [tax and] fees which the dealer has collected from the buyer.

Upon receipt of the [tax, fees,] fee and the completed license application [forms,] form, the director of finance shall mail a tag or decal and certificate of registration to the registered owner. Until the tag or decal is received [from the county], the bicycle or moped owner shall keep a copy of the completed application form upon the owner's person when riding the [owner's] bicycle or moped on a public street.”

SECTION 4. Section 249-15, Hawaii Revised Statutes, is amended to read as follows:

“§249-15 Seizure and sale. The directors of finance [, and deputy director of finance and], any person authoritatively acting on behalf of the director of finance, or [deputy director of finance and all members of the] any member of a police force of the several [districts] counties of the State may seize any bicycle or moped liable [to taxation] for the payment of the required fees or which has no tag or decal affixed as required by section 249-14, and may hold the bicycle or moped for a period of ten days, during which time it shall be subject to redemption by its owner on payment of the [tax] fee due and a penalty of [50 cents.] \$1. All bicycles and mopeds not so redeemed shall be sold by [any] the county chief of police [or the chief's authorized subordinate, or director of finance or deputy director of finance,] or director of finance or their authorized representative, at public auction after first giving five [days'] days public notice of the time and place of sale by advertisement in a newspaper [published in the district, if any,] of general circulation in the [or by posting notices in at least three public places in the district] county where the sale is to be held. Sale shall be made for the best price obtainable, which amount shall be forthwith paid over to the director of finance [or the director's deputy], accompanied by a statement containing a description of the bicycles or mopeds, their serial number, makes, and any other marks of identification. The director of finance [or the director's deputy] shall [thereupon], after deducting from the amount so received the amount of the [tax] fee and penalty due and costs of advertising, pay [over] any surplus to the previous registered owners of the bicycles or mopeds [any surplus there may be if it is possible to ascertain who the owners are]. If at the expiration of ninety days the previous registered owners remain unknown, the surplus shall be paid into the treasury of the county, as a government realization, and all claims to such sums shall be forever barred.”

SECTION 5. Section 249-16, Hawaii Revised Statutes, is amended to read as follows:

“§249-16 Duplicate bicycle and moped tags. In the event that a bicycle or moped tag furnished under section 249-14 is lost, the person to whom it was furnished may obtain a duplicate thereof by presenting to the county director of finance [or the director's deputy] the number and registration of the bicycle or moped involved. There shall be [charged] a charge of \$2 for the duplicate tag [issued the sum of 10 cents].”

SECTION 6. Section 249-17, Hawaii Revised Statutes, is amended to read as follows:

“§249-17 False tag, bicycle or moped, penalty. Any person who uses a tag not furnished in accordance with section 249-14, [or uses any tag described in such section for two consecutive years,] or who counterfeits any such tag or who fraudulently removes such a tag from any bicycle or moped, shall be fined not more than \$500.”

SECTION 7. Section 249-17.5, Hawaii Revised Statutes, is amended to read as follows:

“§249-17.5 Bikeway fund; established. All [taxes] fees collected under section 249-14 and 249-14.5 shall be deposited in a fund to be known as the “bikeway fund” and shall be expended in the county in which the [taxes] fees are collected for the following purposes:

- (1) For acquisition, design, construction, improvement, repair, and maintenance of bikeways, including the installation and repair of storm drains and bridges;
- (2) For installation, maintenance, and repair of bikeway lights and power, including replacement of old bikeway lights;
- (3) For purposes and functions connected with traffic control and preservation of safety upon bikeways;
- (4) For payment of interest on and redemption of bonds issued to finance bikeway construction and improvements; and
- (5) For the promotion of bicycling transportation and recreation.”

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

SECTION 9. This Act shall take effect November 1, 1988.

(Approved June 13, 1988.)

ACT 265

S.B. NO. 743

A Bill for an Act Relating to Historic Preservation.

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

SECTION 1. Chapter 6E, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designated and to read as follows:

“§6E- Cemeteries; removal or redesignation. (a) Any person removing or redesignating any cemetery shall comply with the following requirements:

- (1) Publish a notice in a newspaper of general circulation in the State, requesting persons having information concerning the cemetery or persons buried in it to report that information to the department;
 - (2) Photograph the cemetery generally, and take separate photographs of all headstones located in the cemetery;
 - (3) Turn over to the department all photographs and any other relevant historical records; and
 - (4) Move all headstones to the place of reinterment.
- (b) The requirements of subsection (a) shall be in addition to any requirements imposed by the department of health.

§6E- Review of proposed projects. Before any agency or officer of the State, or its political subdivisions, approves any project involving a permit, license, certificate, land use change, subdivision or other entitlement for use, which may affect historic property, the agency or office shall advise the department and allow the department an opportunity for review and comment on the effect of the proposed project on historic properties, including those listed in the Hawaii register of historic places.

§6E- Prehistoric and historic burial sites. (a) At any site, other than a known, maintained, actively used cemetery where human skeletal remains are discovered, the remains shall not be moved without the department's approval, and any activity in the immediate area which could damage the remains or the potential historic site shall cease until the requirements of subsections (b) to (d) have been met.

(b) The finding shall be reported as soon as possible to the department, the medical examiner or coroner, and the appropriate police department.

(c) After notification of the discovery of multiple skeletons, the following shall be done within two working days, if on Oahu, and three working days, if on other islands:

- (1) A representative of the medical examiner or coroner's office and a qualified archaeologist shall examine the remains to determine jurisdiction. If the remains are the responsibility of the medical examiner or coroner, the department's involvement will end. If the remains are significant historic or prehistoric burials, the remainder of this section shall apply;
- (2) The department shall gather sufficient archaeological information to evaluate the significance of the remains;
- (3) If the remains are significant, based on criteria established for the Hawaii register of historic places, the department shall prepare a mitigation plan. If this plan calls for data recovery, and the removal of the burials is warranted, then archaeological analysis must occur, along with appropriate study of the remains by a qualified physical anthropologist. If lineal descendants can be identified by the department, and if they oppose the physical anthropological study, then it shall not occur; and
- (4) The department shall notify the office of Hawaiian affairs if it is likely that the remains are those of native Hawaiians.

(d) In cases involving the discovery of a single skeleton, the requirements of subsection (c) shall be fulfilled in one working day if on Oahu, and two working days if on other islands.

(e) The mitigation plan developed by the department pursuant to subsection (c)(3) shall be carried out in accordance with the following:

- (1) In discoveries related to development where land alteration project activities exist, the landowner, permittee, or developer shall be responsible for the execution of the mitigation plan and the disposition of remains. Delays shall not count against any contractor's completion date agreement;
 - (2) Project activities shall resume once necessary archaeological excavations of the mitigation plan have been completed;
 - (3) In non-project contexts, the department shall be responsible for the execution of the mitigation plan and the disposition of remains; and
 - (4) The department shall verify the successful execution of the mitigation plan.
- (f) In cases where remains are archaeologically removed, the department shall determine the final disposition, after consultation with representatives of the relevant ethnic group and any identified lineal descendants.
- (1) Options shall include:
 - (A) Reburial on the site;
 - (B) Reburial off the site; or
 - (C) Curation in a depository.
 - (2) Disposition shall conform with requirements imposed by the department of health.
 - (3) Disposition may be accompanied by traditional ceremonies, as determined by representatives of the relevant ethnic group whom the department deems appropriate.
 - (4) Special disposition requests from lineal descendants may be accommodated provided that the additional expenses incurred are paid by the affected lineal descendants."

SECTION 2. 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 3. New statutory material is underscored.¹

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

(Approved June 13, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 266

S.B. NO. 1170

A Bill for an Act Relating to Risk Management and Insurance Administration.

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
STATE RISK MANAGEMENT AND INSURANCE
ADMINISTRATION**

§ -1 Definitions. As used in this chapter:

“Comptroller” means the comptroller of the State as designated in section 26-6.

“Department” means the department of accounting and general services.

“Attorney general” means the attorney general of the State.

“Informal resolution” means the process of investigating a claim and negotiating the resolution of the claim.

“Insurance” shall have the same meaning in this chapter as it has in section 431:1-201.

“Property insurance” shall have the same meaning in this chapter as it has in section 431:1-206.

“Casualty insurance” shall have the same meaning as general casualty insurance has in section 431:1-209, provided that in this chapter “casualty insurance” shall exclude disability insurance as defined in section 431:1-205, and includes marine and transportation insurance as defined in section 431:1-207, vehicle insurance as defined in section 431:1-208 surety insurance as defined in section 431:1-210 and ocean marine insurance as defined in section 431:1-211.

“State agency” means all executive departments, boards, and commissions of the State and all public corporations created by the legislature, but excludes any contractor with the State.

“Risk manager” means the risk manager described in section -7.

“Tort claim” means any written request or demand for damages against the State within the meaning of chapter 662, and includes a “complaint” within the meaning of Rule 7(a) of the Hawaii Rules of Civil Procedure, of the District Court Rules of Civil Procedure and of the Federal Rules of Civil Procedure, if the complaint is for damages against the State within the meaning of chapter 662.

“Property of the State” includes real and personal property rented or used by the State and for which the State is responsible to the owner, as well as property owned by the State.

§ -2 Responsibilities of the comptroller. (a) The comptroller, through the risk manager, shall:

- (1) Have discretion to purchase casualty insurance for the State or state agencies, including those employees of the State who, in the comptroller’s discretion, may be at risk and shall be responsible for the acquisition of all casualty insurance;
- (2) Have discretion to purchase property insurance for the State or state agencies and shall acquire all property insurance;
- (3) Direct and manage all risk management and insurance programs of the State, except for employee benefits insurance and workers’ compensation insurance programs or as otherwise provided in chapters 87, 88, 383 to 386A, 392, and 393;
- (4) Consult with state agencies to determine what property, casualty, and other insurance policies are presently in force or are sought by the state agencies and to make determinations about whether to continue subscribing to insurance policies. In the event that the risk manager’s determination is not satisfactory to the state agency, the state agency may have the risk manager’s decision reviewed by the comptroller. In this case, the comptroller’s decision shall be final;

- (5) Consolidate and combine state insurance coverages, and purchase excess insurance when, in the comptroller's discretion, it is appropriate to do so;
- (6) Acquire risk management, investigative, claims adjustment, actuarial, and other services, except attorney's services, as may be required for the sound administration of this chapter;
- (7) Gather from all state agencies and maintain data regarding the State's risks and casualty, property, and fidelity losses;
- (8) In conjunction with the attorney general and as otherwise provided by this chapter, compromise or settle claims cognizable under chapter 662;
- (9) Provide technical services in risk management and insurance to state agencies; and
- (10) Do all other things appropriate to the development of sound risk management practices and policies for the State.

(b) The requirements of chapter 103 shall not apply to the acquisition of insurance by or for state agencies.

(c) Any provision in this section to the contrary notwithstanding, the University of Hawaii (as to casualty insurance risks only), the Research Corporation of the University of Hawaii (as to casualty insurance risks only), and the county/state hospitals of the department of health (with respect to medical malpractice risks only) shall be exempt from the requirements of this chapter.

§ -3 Adjustment of claims against the State. (a) All tort claims against the State or its agencies or employees arising under chapter 662, except those within the purview of section -8, shall be reviewed by the attorney general to determine:

- (1) Whether the tort claim is one for which the State is or may be liable under chapter 662; and
- (2) Whether the attorney general should defend employees of the State against whom a claim has been made, consistent with section 662-16.

(b) Upon the attorney general's affirmative determination under subsection (a), the attorney general may refer the claim to the comptroller for informal resolution.

(c) All claims against the State that are within the purview of section -8 shall be reviewed in the first instance by the comptroller for informal resolution as provided in this section.

(d) If the comptroller succeeds in negotiating the settlement of a claim that is within the purview of section -8 for an amount not exceeding the medical-rehabilitative limit established in section 431:10C-308 that applies to the claim, the comptroller may pay the claim without further review by the attorney general.

(e) If the comptroller, through the comptroller's claims adjusting staff, succeeds in negotiating the settlement of a tort claim that is not within the purview of section -8, the comptroller may pay the claim pursuant to chapter 662.

(f) Upon referral by the comptroller, the attorney general, in the attorney general's discretion, shall make determinations of whether a claim would or would not be within the purview of section -8 for purposes of subsections (d) and (e).

(g) If the tort claim cannot be resolved informally as set forth in subsections (d) or (e), the comptroller promptly shall refer the claim back to the attorney general for resolution in the manner described in chapter 662.

(h) All of the efforts of the comptroller or the comptroller's delegate under this section shall be "compromise negotiations" within the meaning of the rule 408, section 626-1.

(i) Claims settled and approved under subsections (d) and (e) shall be paid from the state risk management revolving fund described in section -4.

§ -4 State risk management revolving fund. (a) The State risk management revolving fund is created and shall be funded in amounts reasonably necessary to:

- (1) Carry out the responsibilities of the comptroller established in section -2;
- (2) Pay claims to state agencies for losses to property of the State caused by fire or other casualty, including the cost to repair or replace buildings and other structures, replace damaged contents, and to provide alternate structures while damaged structures are being repaired or replaced;
- (3) Pay claims against the State under sections -3 and -8; and
- (4) Pay for losses to the State incurred by the dishonesty, nonfeasance, or misfeasance of any officer or employee of the State or for any losses to the State through larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, willful misapplication, or any other fraudulent or dishonest act committed by one or more of the employees of the State acting directly or in collusion with others.

(b) In addition to any appropriation the legislature shall make to the state risk management revolving fund, the comptroller may apportion to, and collect from, state agencies those amounts of money that, in the discretion of the comptroller, reflect benefits received by the agencies under this chapter. The comptroller may consider the relevant risk and loss experience of the agencies in making apportionments and assessments. Funds so collected shall be deposited to the state risk management revolving fund.

(c) The comptroller may establish deductibles for the state agencies for certain perils or classes of property losses and may:

- (1) Assess the agencies for losses incurred in the amount of the deductible, or
- (2) Reduce the payment from the state risk management revolving fund to cover the casualty loss by the amount of the deductible.

(d) The comptroller may establish a formula for refunds to the state agencies based upon the agencies' risk and loss experience.

(e) The comptroller shall draw warrants on the state risk management revolving fund for the payment of losses approved by the comptroller.

(f) Money in the state risk management revolving fund not expended within the fiscal year or years shall not lapse, but money shall be retained in the fund for use in subsequent years.

(g) Money in the state risk management revolving fund shall be expended only for the purposes delineated in subsection (a) and only upon the authority of the comptroller, who is given discretion when to permit expenditures from the fund. In no event shall funds be expended for the use or benefit of any private person on account of the person's claim against the State.

§ -5 Investment of fund. The director of finance shall invest all moneys appropriated or assessed to the state risk management revolving fund. Interest upon the investments shall be credited to the state risk management revolving fund.

§ -6 Fund advancement; dissolution. If the state risk management revolving fund should become financially incapable of meeting its obligations under this chapter, the comptroller, in the comptroller's discretion, may:

- (1) Request that the governor authorize the transfer of sufficient sums to meet the fund's obligations from whatever such savings as may be available from other current appropriation for any other state program. Money so advanced shall be repaid from the state risk management revolving fund in annual installments, without interest. The amount

of installments shall be fixed by the director of finance at whatever amount as can reasonably be expected to liquidate indebtedness of the fund in not more than ten years; or

- (2) Dissolve the fund, prorating remaining assets of the fund among the claimants, giving priority to those claims as, in the comptroller's discretion, is appropriate.

§ -7 Risk management. The comptroller shall appoint a risk manager to supervise and direct the determination and treatment for the best interests of the State of all risks appertaining to the property of the State and its personnel and operations. The risk manager shall be responsible for the administration of the comptroller's responsibilities with respect to this chapter.

§ -8 Insurance on public vehicles. Vehicles owned by the State or in the custody and use of any department may be self-insured or insured by purchased insurance against public liability in compliance with article 10C of chapter 431. Determinations of whether to insure or self-insure shall be made by the comptroller in conjunction with the state agency having custody or control of the vehicle, or the vehicle may be insured on a complete or excess coverage basis under a comprehensive automobile liability insurance policy entered into by the comptroller. If the vehicles are self-insured, claims for which the State is liable under article 10C of chapter 431 may be settled and paid by the comptroller from the state risk management revolving fund, notwithstanding the provisions of chapter 662. Any purchased state comprehensive automobile liability insurance policy shall be administered by and be subject to the control of the comptroller.

§ -9 Construction. Nothing in this chapter shall be deemed to expand the scope of liability of the State beyond that set forth in chapter 662. Nothing in this chapter shall be construed to waive the immunity of the State from suit in federal courts guaranteed by the eleventh amendment to the Constitution of the United States."

SECTION 2. Section 661-11, Hawaii Revised Statutes, is amended to read as follows:

"§661-11 Tort claims against State where covered by insurance. This section applies to an action where (1) the State is a party defendant; (2) the subject matter of the claim is covered by [an] a primary insurance policy entered into by the State or any of its agencies; and (3) chapter 662 does not apply. No defense of sovereign immunity shall be raised in an action under this section. However, the State's liability under this section shall not exceed the amount of, and shall be defrayed exclusively by, [such] the primary insurance policy.

An action under this section [is] shall not be subject to [the provisions of] sections 661-1 to 661-10."

SECTION 3. Chapter 41, Hawaii Revised Statutes, is repealed.

SECTION 4. Funds appropriated or authorized as the case may be, in other acts for state departments and agencies in fiscal biennium 1987-1989 of \$11 million for the purposes of the state risk management revolving fund proposed in this Act, or so much thereof as may be sufficient for the purposes of this Act shall be transferred by expenditure and deposited in the state risk management revolving fund. That sums transferred may include sums appropriated or authorized for the risk management program (AGS-203) and sums appropriated for settlement of tort claims against the State to be expended by the attorney general.

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

SECTION 6. This Act shall take effect on July 1, 1988.

(Approved June 13, 1988.)

ACT 267

S.B. NO. 1541

A Bill for an Act Relating to Health.

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

SECTION 1. Chapter 327, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART I. UNIFORM ANATOMICAL GIFT ACT

§327-1 Definitions. As used in this chapter:

“Anatomical gift” means a donation of all or part of a human body to take effect upon or after death.

“Decedent” means a deceased individual and includes a stillborn infant or fetus.

“Document of gift” means a card, a statement attached to or imprinted on a motor vehicle operator’s or chauffeur’s license, a will, or other writing used to make an anatomical gift.

“Donor” means an individual who makes an anatomical gift of all or part of the individual’s body.

“Enucleator” means an individual who has successfully completed a course of training acceptable to the board of medical examiners to remove or process eyes or parts of eyes.

“Hospital” means a facility licensed, accredited, or approved as a hospital under a state law.

“Part” means an organ, tissue, eye, bone, artery, blood, fluid, or other portion of a human body.

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

“Physician” or “surgeon” means an individual licensed or otherwise authorized to practice medicine and surgery under chapter 453 or osteopathy and surgery under chapter 460.

“Procurement organization” means a person licensed, accredited, or approved under the laws of any state for procurement, distribution, or storage of human bodies or parts.

“State” means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

“Technician” means an individual who, under the supervision of a licensed physician, removes or processes a part.

§327-2 Making, amending, revoking, and refusing to make anatomical gifts by individual. (a) An individual who is at least eighteen years of age may:

- (1) Make an anatomical gift for any of the purposes stated in section 327-6;

- (2) Limit an anatomical gift to one of those purposes; or
- (3) Refuse to make an anatomical gift.

(b) An anatomical gift may be made only by a document of gift signed by the donor. If the donor cannot sign, the document of gift shall be signed by another individual and by two witnesses, all of whom have signed at the direction and in the presence of the donor and of each other, and state that it has been so signed.

(c) If a document of gift is attached to or imprinted on a donor's motor vehicle operator's or chauffeur's license, the document of gift shall comply with subsection (b). Revocation, suspension, expiration, or cancellation of the license shall not invalidate the anatomical gift.

(d) A document of gift may designate a particular physician or surgeon to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the anatomical gift may employ or authorize any physician, surgeon, technician, or enucleator to carry out the appropriate procedures.

(e) An anatomical gift by will shall take effect upon death of the testator, whether or not the will is probated. If, after death, the will is declared invalid for testamentary purposes, the validity of the anatomical gift is unaffected.

(f) A donor may amend or revoke an anatomical gift, not made by will, only by:

- (1) A signed statement;
- (2) An oral statement made in the presence of two individuals;
- (3) Any form of communication during a terminal illness or injury addressed to a physician or surgeon; or
- (4) The delivery of a signed statement to a specified donee to whom a document of gift had been delivered.

(g) The donor of an anatomical gift made by will may amend or revoke the gift in the manner provided for amendment or revocation of wills, or as provided in subsection (f).

(h) An anatomical gift that is not revoked by the donor before death is irrevocable and does not require the consent or concurrence of any person after the donor's death.

(i) An individual may refuse to make an anatomical gift of the individual's body or part by:

- (1) A writing signed in the same manner as a document of gift;
- (2) A statement attached to or imprinted on a donor's motor vehicle operator's or chauffeur's license; or
- (3) Any other writing used to identify the individual as refusing to make an anatomical gift. During a terminal illness or injury, the refusal may be an oral statement or other form of communication.

(j) In the absence of contrary indications by the donor, an anatomical gift of a part is neither a refusal to give other parts nor a limitation on an anatomical gift under section 327-3 or on a removal or release of other parts under section 327-4.

(k) In the absence of contrary indications by the donor, a revocation or amendment of an anatomical gift is not a refusal to make another anatomical gift. If the donor intends a revocation to be a refusal to make an anatomical gift, the donor shall make the refusal pursuant to subsection (i).

§327-3 Making, revoking, and objecting to anatomical gifts, by others.

(a) Any member of the following classes of persons, in the order of priority listed, may make an anatomical gift of all or a part of the decedent's body for an authorized purpose, unless the decedent, at the time of death, has made an unrevoked refusal to make that anatomical gift:

- (1) The spouse of the decedent;
- (2) An adult son or daughter of the decedent;
- (3) Either parent of the decedent;
- (4) An adult brother or sister of the decedent;
- (5) A grandparent of the decedent; and
- (6) A guardian of the person of the decedent at the time of death.

(b) An anatomical gift may not be made by a person listed in subsection

(a) if:

- (1) A person in a prior class is available at the time of death to make an anatomical gift;
- (2) The person proposing to make an anatomical gift knows of a refusal or contrary indications by the decedent; or
- (3) The person proposing to make an anatomical gift knows of an objection to making an anatomical gift by a member of the person's class or a prior class.

(c) An anatomical gift by a person authorized under subsection (a) shall be made by:

- (1) A document of gift signed by the person; or
- (2) The person's telegraphic, recorded telephonic, or other recorded message, or other form of communication from the person that is contemporaneously reduced to writing and signed by the recipient.

(d) An anatomical gift by a person authorized under subsection (a) may be revoked by any member of the same or a prior class if, before procedures have begun for the removal of a part from the body of the decedent, the physician, surgeon, technician, or enucleator removing the part knows of the revocation.

(e) A failure to make an anatomical gift under subsection (a) is not an objection to the making of an anatomical gift.

§327-4 Authorization by medical examiner, coroner, coroner's physician, or director of health. (a) A medical examiner, coroner, or coroner's physician, as applicable, may release and permit the removal of a part from a body within that official's custody, for transplantation or therapy, if:

- (1) The official has received a request for the part from a hospital, physician, surgeon, or procurement organization;
- (2) The hospital, physician, surgeon, or procurement organization certifies that the entity or person making the request has made a reasonable effort, taking into account the useful life of the part, to locate and examine the decedent's medical records and inform persons listed in section 327-3 of their option to make, or object to making, an anatomical gift;
- (3) The official does not know of a refusal or contrary indication by the decedent or objection by a person having priority to act as listed in section 327-3;
- (4) The removal will be by a physician, surgeon, or technician; but in the case of eyes, by one of them or by an enucleator;
- (5) The removal will not interfere with any autopsy or investigation;
- (6) The removal will be in accordance with accepted medical standards; and
- (7) Cosmetic restoration will be done, if appropriate.

(b) If the body is not within the jurisdiction of a medical examiner, coroner, or coroner's physician, the director of health may release and permit the removal of any part from the body in the director's jurisdiction for transplantation or therapy if the requirements of subsection (a) are met.

(c) An official releasing and permitting the removal of a part shall maintain a permanent record of the name of the decedent, the person making the request, the date and purpose of the request, the part requested, and the person to whom it was released.

§327-5 Routine inquiry and required request; search and notification.

(a) On or before admission to a hospital, or as soon as possible thereafter, a person designated by the hospital shall ask each patient who is at least eighteen years of age: "Are you an organ or tissue donor?" If the answer is affirmative the person shall request a copy of the document of gift. The person designated shall make available basic information regarding the option to make or refuse to make an anatomical gift. The answer to the question, an available copy of any document of gift or refusal, if any, to make an anatomical gift, and any other relevant information, shall be placed in the patient's medical record.

(b) If, at or near the time of death of a patient, there is no medical record that the patient has made or refused to make an anatomical gift, the hospital administrator or a representative designated by the administrator shall discuss the option to make or refuse to make an anatomical gift and request the making of an anatomical gift pursuant to section 327-3. The request shall be made with reasonable discretion and sensitivity to the circumstances of the family. A request is not required if the gift is not suitable, based upon accepted medical standards, for a purpose specified in section 327-6. An entry shall be made in the medical record of the patient, stating the name and affiliation of the individual making the request, and of the name, response, and relationship to the patient of the person to whom the request was made. The director of health may adopt rules to implement this subsection.

(c) The following persons shall, at the person's discretion and if time and resources permit, and if doing so would be inoffensive to anyone in the vicinity of the body, make a reasonable search of the person and the person's immediate personal effects for a document of gift or other information identifying the bearer as a donor or as an individual who has refused to make an anatomical gift:

- (1) A law enforcement officer, firefighter, paramedic, or other emergency rescuer attending an individual who the searcher believes to be dead or near death; and
- (2) A hospital, upon the admission of an individual at or near the time of death, if there is not immediately available any other source of that information.

(d) If a document of gift or evidence of refusal to make an anatomical gift is located by the search required by subsection (c)(1), and the individual or body to whom it relates is taken to a hospital, the hospital shall be notified of the contents and the document or other evidence shall be sent to the hospital.

(e) If, at or near the time of death of a patient, a hospital knows that an anatomical gift has been made pursuant to section 327-3 or a release and removal of a part has been permitted pursuant to section 327-4, or that a patient or an individual identified as in transit to the hospital is a donor, the hospital shall notify the donee if one is named and known to the hospital; if not, it shall notify an appropriate procurement organization. The hospital shall cooperate in the implementation of the anatomical gift or release and removal of a part.

(f) A person who fails to discharge the duties imposed by this section is not subject to criminal or civil liability but is subject to appropriate administrative sanctions.

§327-6 Persons who may become donees; purposes for which anatomical gifts may be made. (a) The following persons may become donees of anatomical gifts for the purposes stated:

- (1) A hospital, physician, surgeon, or procurement organization, for transplantation, therapy, medical or dental education, research, or advancement of medical or dental science;
 - (2) An accredited medical or dental school, college, or university for education, research, advancement of medical or dental science; or
 - (3) A designated individual for transplantation or therapy needed by that individual.
- (b) An anatomical gift may be made to a designated donee or without designating a donee. If a donee is not designated or if the donee is not available or rejects the anatomical gift, the anatomical gift may be accepted by any hospital.
- (c) If the donee knows of the decedent's refusal or contrary indications to make an anatomical gift or that an anatomical gift by a member of a class having priority to act is opposed by a member of the same class or a prior class under section 327-3, the donee may not accept the anatomical gift.

§327-7 Delivery of document of gift. (a) Delivery of a document of gift during the donor's lifetime is not required for the validity of an anatomical gift.

(b) If an anatomical gift is made to a designated donee, the document of gift, or a copy, may be delivered to the donee to expedite the appropriate procedures after death. The document of gift, or a copy, may be deposited in any hospital, procurement organization, or registry office that accepts it for safekeeping or for facilitation of procedures after death. On request of an interested person, upon or after the donor's death, the person in possession shall allow the interested person to examine or copy the document of gift.

§327-8 Rights and duties at death. (a) Rights of a donee created by an anatomical gift are superior to rights of others except with respect to autopsies under section 327-11. A donee may accept or reject an anatomical gift. If a donee accepts an anatomical gift of an entire body, the donee, subject to the terms of the gift, may allow embalming and use of the body in funeral services. If the gift is of a part of a body, the donee, upon the death of the donor and before embalming, shall cause the part to be removed without unnecessary mutilation. After removal of the part, custody of the remainder of the body vests in the person under obligation to dispose of the body.

(b) The time of death shall be determined by the physician or surgeon who attends the donor at death or, if none, the physician or surgeon who certifies the death. Neither the physician or surgeon who attends the donor at death nor the physician or surgeon who determines the time of death may participate in the procedures for removing or transplanting a part unless the document of gift designates a particular physician or surgeon pursuant to section 327-2.

(c) If there has been an anatomical gift, a technician may remove any donated parts and an enucleator may remove any donated eyes or parts of eyes, after determination of death by a physician or surgeon.

§327-9 Coordination of procurement and use. Each hospital in this State, after consultation with other hospitals and procurement organizations, shall establish agreements or affiliations for coordination of procurement and use of human bodies and parts.

§327-10 Sale or purchase of parts prohibited. (a) A person may not knowingly, for valuable consideration, purchase or sell a part for transplantation or therapy, if removal of the part is intended to occur after the death of the decedent.

(b) Valuable consideration does not include reasonable payment for the removal, processing, disposal, preservation, quality control, storage, transportation, or implantation of a part.

(c) A person who violates this section shall be guilty of a felony and upon conviction is subject to a fine not exceeding \$50,000 or imprisonment not exceeding five years, or both.

§327-11 Examination, autopsy, liability. (a) An anatomical gift authorizes any reasonable examination necessary to assure medical acceptability of the gift for the purposes intended.

(b) The provisions of this chapter are subject to the laws of this State governing autopsies.

(c) A hospital, physician, surgeon, medical examiner, the director of health, an enucleator, a technician, or other person, who acts in accordance with this chapter or with the applicable anatomical gift law of another state or attempts in good faith to do so shall not be liable for that act in a civil action or criminal proceeding.

(d) An individual who makes an anatomical gift pursuant to section 327-2 or 327-3 and the individual's estate shall not be liable for any injury or damage that may result from the making or the use of the anatomical gift.

§327-12 Transitional provisions. This chapter shall apply to a document of gift, revocation, or refusal to make an anatomical gift signed by the donor or a person authorized to make or object to making an anatomical gift before, on, or after the effective date of this chapter.

§327-13 Uniformity of application and construction. This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

§327-14 Short title. This part may be cited as the "Uniform Anatomical Gift Act".

SECTION 2. Chapter 327, part I, Hawaii Revised Statutes, is repealed.

SECTION 3. If any provision of this Act or its application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

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

(Approved June 13, 1988.)

ACT 268

S.B. NO. 1265

A Bill for an Act Relating to Aquatic Recreation.

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

SECTION 1. Section 267-3, Hawaii Revised Statutes, is amended by adding a new definition of "parasailing" to be appropriately inserted and to read as follows:

""Parasailing" means the activity in which an individual is transported or carried aloft by a parachute, sail, or other material attached to a towline which is towed by a vessel."

SECTION 2. Section 267-4, Hawaii Revised Statutes, is amended to read as follows:

"§267-4 Rules. The department of transportation shall from time to time make, alter, amend, and repeal rules not inconsistent with the law as may be reasonably necessary to implement the policy and purpose of this chapter, and in such adoption [and promulgation] the department may classify vessels into appropriate categories and classes.

Without limiting the generality of the department's power to adopt [and promulgate] other rules pursuant to this section, it shall adopt [and promulgate] rules with respect to the following:

- (1) The registration and numbering of vessels;
- (2) The operation, use, and equipment of vessels on or in the waters of the State;
- (3) The conduct of persons involved in boating accidents and in the reporting of the accidents and other casualties and losses to the department; and
- (4) The designation of areas of the waters of the State on which thrill crafts may be operated[.], and waters on or above which persons may engage in parasailing.

Rules made pursuant to the powers granted under this section shall be adopted [and promulgated] pursuant to chapter 91 and shall, upon being duly adopted [and promulgated], have the force and effect of law."

SECTION 3. Section 267-16, Hawaii Revised Statutes, is amended to read as follows:

"[§267-16[]] Operation of thrill craft[.]; parasailing. (a) No person shall operate a thrill craft unless the person is fifteen years of age or older.

(b) The department shall adopt rules to designate areas where thrill craft may be operated[.] and parasailing may be engaged in.

(c) From [July] October 1, 1988, no person shall operate a thrill craft in the waters of the State, except:

- (1) In areas designated by the department; and
 - (2) Through areas designated by the department to serve as avenues for the ingress and egress of thrill crafts between the areas designated under paragraph (1) and the shore.
- (d) From October 1, 1988, no person shall:
- (1) Engage in parasailing; or
 - (2) Operate a motorized vessel towing a person engaged in parasailing; on or above the waters of the State, except on or above areas designated by the department.

(e) From the effective date of this Act until September 30, 1988, the department shall not issue an original certificate of number under title 19, subtitle 3, chapter 72, Hawaii Administrative Rules, for any thrill craft for commercial use or vessel used for parasailing activity.

The prohibition of this subsection shall not apply to (1) the issuance of a certificate of number for a new thrill craft or vessel used as a direct replacement for thrill craft engaged in commercial use or a vessel engaged in parasailing, or (2) the renewal, by the owner, of a certificate of number issued for a thrill craft used for commercial purposes or a vessel engaged in parasailing activities prior to the effective date of this Act.

This subsection shall be repealed and shall have no force or effect after September 30, 1988."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved June 13, 1988.)

ACT 269

S.B. NO. 2044

A Bill for an Act Relating to Calabash Cousins of Hawaii.

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

SECTION 1. The Legislature finds that only six individuals have been designated Calabash Cousins to the people of Hawaii during the years in which this award has been authorized by law. The first was designated in 1966, and the last in 1969. No designations have been made in the past nineteen years. Accordingly, the Legislature finds that the law authorizing the awards is now of limited utility and should be repealed.

SECTION 2. Section 5-11, Hawaii Revised Statutes, is repealed.

SECTION 3. Statutory material to be repealed is bracketed.¹

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

(Approved June 13, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 270

S.B. NO. 2070

A Bill for an Act Relating to Animals.

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

SECTION 1. Chapter 143, Hawaii Revised Statutes, is amended by amending the title of the chapter to read as follows:

"[DOGS:] ANIMALS: LICENSES AND REGULATIONS"

SECTION 2. Chapter 143, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§143- Regulation of other animals. Nothing in this chapter shall be construed as a limitation on the authority of the counties to regulate, including by licensure, animals other than dogs."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

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

(Approved June 13, 1988.)

ACT 271

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 271

S.B. NO. 2112

A Bill for an Act Relating to Firearms, Ammunition, and Dangerous Weapons.

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

SECTION 1. The purpose of this Act is to include among those considered to be "fugitives from justice" for purposes of laws regulating firearms, ammunition, and dangerous weapons, persons who have fled from a foreign country and are avoiding lawful extradition back to that country. Broadening the definition in this way effectively prohibits such persons from owning or possessing firearms and ammunition therefor.

SECTION 2. Section 134-1, Hawaii Revised Statutes, is amended by amending the definition of "fugitive from justice" to read as follows:

" "Fugitive from justice" means any person 1) who has fled from any state, territory, the District of Columbia, or possession of the United States, to avoid prosecution for a felony or to avoid giving testimony in any criminal proceeding or 2) who has fled from any country other than the United States and is avoiding lawful extradition back to that country."

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

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

(Approved June 13, 1988.)

ACT 272

S.B. NO. 2124

A Bill for an Act Relating to Firearms and Explosives.

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

SECTION 1. The purpose of this Act is to create a special permit for the possession, transportation, and use of firearms by motion picture film or television program production personnel. This special permit, with proper safeguards, will facilitate the State's efforts to promote and develop the film industry in Hawaii.

SECTION 2. Section 134-11, Hawaii Revised Statutes, is amended to read as follows:

“§134-11 Exemptions. (a) Sections 134-6 to 134-9 shall not apply:

- (1) To members of police departments, sheriffs, and law enforcement officers;
- (2) To members of the armed forces of the State and of the United States and mail carriers [whose duties require them to be armed,] while in the performance of their respective duties[;] if those duties require them to be armed;

- (3) To regularly enrolled members of any organization duly authorized to purchase or receive the weapons from the United States or from the State, provided the members are either at, or going to or from, their places of assembly[,] or target practice;
- (4) To persons employed by the State, or subdivisions thereof, or the United States [whose duties require them to be armed,] while [the persons are] in the performance of their respective duties[,] or while going to and from their respective places of duty[;]if those duties require them to be armed;
- (5) To aliens employed by the State, or subdivisions thereof, or the United States [whose duties require them to be armed,] while [the persons are] in the performance of their respective duties[,] or while going to and from their respective places of duty[;]if those duties require them to be armed;
- (6) To police officers on official assignment in Hawaii from any state which by compact permits police officers from Hawaii while on official assignment in that state to carry firearms without registration. The governor of the State or the governor's duly authorized representative may enter into compacts with other states to carry out this section.

[Nor shall sections] (b) Sections 134-2 and 134-3 shall not apply to such firearms or ammunition as are a part of the official equipment of any federal agency.

(c) Sections 134-6, 134-8, and 134-9 shall not apply to the possession, transportation, or use, with blank cartridges, of any firearms or explosive solely as props for motion picture film or television program production when authorized by the chief of police of the appropriate county pursuant to section 134- and not in violation of federal law."

SECTION 3. Chapter 134, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§134. Permits. (a) Upon a finding that public safety is not endangered, the chief of police of the appropriate county may issue permits, initially valid for a period of one year and renewable annually thereafter, for the possession, transportation, or use, with blank cartridges, of firearms or explosives solely as props for motion picture films or television program production upon a showing that good cause exists for the issuance of a permit to the applicant and upon sufficient proof of a federal firearms license and a state film permit required under section 201-3. No permit shall be issued to a person who is under twenty years of age or who is disqualified under section 134-7.

(b) Applications for permits shall be in writing, signed by the individual applicant or by a member or officer qualified to sign if the applicant is a firm or corporation, and shall state the name, business in which engaged, business address, and a full description of the use to which the firearms or explosives are to be put, including the names of the persons who will actually use the props. The application shall also require the fingerprinting and photographing of the applicant. Applications and permits shall be uniform throughout the State on forms prescribed by the attorney general.

(c) The attorney general shall establish rules pursuant to chapter 91 concerning security requirements for storing and transporting firearms or explosives for which permits are issued. Permits shall be issued only upon a showing of the applicant's ability to meet these security requirements.

(d) A fee of \$50 should be charged for each permit issued under this section.

(e) Every applicant to whom a permit is issued shall keep it on the applicant's person or at the place where the firearms or explosives are stored. The permit,

firearms and explosives, shall be available for inspection by any law enforcement officer or any other person designated by the respective chief of police.

(f) Every firearm or explosive for which a permit is issued shall bear a unique identifying number. If the firearm or explosive does not bear a unique identifying number, the chief of police of the appropriate county shall assign a number that shall be stamped or placed thereon.

(g) The chief of police of the respective county shall revoke permits issued under this section any time it appears that the holder of the permit has used the firearms or explosives for purposes other than those allowed by the permit or that the holder of the permit has not exercised great care in retaining custody of any firearms or explosive possessed under the permit."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 4. This Act shall take effect on August 1, 1988.

(Approved June 13, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 273

S.B. NO. 2213

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds to Finance a Wind Energy Project in the County of Maui.

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 of the State. The legislature finds that chapter 39A, part V, Hawaii Revised Statutes, permits the State to assist industrial enterprises financially through the issuance of special purpose revenue bonds.

SECTION 2. 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 \$15,000,000 in one or more series for the purpose of assisting International Pacific Energy Consortium, Inc., a Hawaii corporation, or a partnership in which International Pacific Energy Consortium, Inc. is a general partner, in the generation of new capital for the establishment of a wind energy farm and related facilities. The electrical output of these facilities shall be made available to members of the general public by sale thereof to Maui Electric Company, Ltd. The legislature finds and determines that the activity and facilities of International Pacific Energy Consortium, Inc. constitute a project as defined in chapter 39A, part V, Hawaii Revised Statutes, and the financing thereof is assistance to an industrial enterprise.

SECTION 3. The special purpose revenue bonds issued under this Act shall be issued pursuant to chapter 39A, part V, Hawaii Revised Statutes, relating to the issuance of special purpose revenue bonds to assist industrial enterprises.

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

(Approved June 13, 1988.)

ACT 274

S.B. NO. 2332

A Bill for an Act Relating to Adoption.

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

SECTION 1. Chapter 578, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§578- Medical information on the natural parents of the adopted minor child. (a) The department of health shall prepare a standard form entitled, “medical information form,” for the purpose of perpetuating medical information on the natural parents of the adopted minor child. This form shall include a request for any information relating to the adopted child’s potential genetic or other inheritable diseases or afflictions, including but not limited to known genetic disorders, inheritable diseases, and similar medical histories, if known, of the parents of the natural parents. The department of health shall make these forms available to all affected public agencies, all child placing organizations approved by the department of human services under section 346-17, attorneys, and other private individuals assisting the natural or adoptive parents in the adoption process, and the family court.

(b) All affected public agencies and all child placing organizations approved by the department of human services under section 346-17 shall make reasonable efforts to complete this form with medical information on both natural parents, to obtain from the natural parents written consent to the release of this information to or for the benefit of the adopted child, and whenever possible, to obtain from the natural mother a signed release to receive a copy of all of her medical records, relating to the birth of the adopted child, which are within the possession of the hospital or other facility at which the child was born. When applicable, the family court may require the petitioner or the petitioner’s agent in the adoption proceeding to obtain this completed form from the natural parents with their consents and the signed release from the natural mother.

(c) Whenever possible, a completed form with the required information on each natural parent shall accompany any document, to be filed with the family court, which requests the relinquishment, termination, or divestiture of parental rights, as provided under sections 571-61 and 587-73(b)(3), and the petition for adoption under this chapter. If available, a copy of the hospital or other facility’s medical records under subsection (b) shall also accompany the document to be filed in the family court. This copy shall not be disseminated to the parties and shall be sealed by the family court pending transmittal to the department of health with the decree of adoption.

(d) For good cause shown, the family court may waive the requirement in subsection (c).

(e) The completed forms shall be made a part of the adoption records of the family court under section 578-15.

(f) A copy of each completed form and, if applicable, the previously sealed copy of the natural mother’s medical records shall be forwarded to the department of health with the decree of adoption. The department shall extract from the medical records pertinent information relating to inheritable diseases and genetic disorders and shall retain this information in an abstract. The completed forms and the abstract, if available, shall be included in the department’s adoption records.

(g) An adopted child upon reaching the age of majority, the adoptive parent on behalf of a minor adopted child, or an authorized designee of the adult adopted child or of the minor’s adoptive parent may file a written application with the department of health for access to the information described in subsection (f).

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(h) Upon the filing of the application in subsection (g), the department of health shall furnish the applicant with a copy of the completed forms and, if available, the abstract of pertinent information from the natural mother's medical records. The department is authorized to disclose the information under this subsection without prior court approval, notwithstanding section 338-20(e).

Nothing in this section shall be construed or applied in any manner to require any public agency or child placing organization to reveal the identities of the natural parents without their consents."

SECTION 2. Section 338-20, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) Such sealed documents, except for the information form provided for in section 578-, may be opened by the department only by an order of a court of record. Upon receipt of a certified copy of a court order setting aside a decree of adoption, the department shall restore the original certificate to its original place in the files."

SECTION 3. New statutory material is underscored.¹

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

(Approved June 13, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 275

S.B. NO. 2441

A Bill for an Act Relating to Firearms and Ammunition.

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

SECTION 1. The purpose of this Act is to clarify and improve the existing language of the Firearms, Ammunition and Dangerous Weapons Act, Chapter 134, part I, Hawaii Revised Statutes, General Regulations.

SECTION 2. Chapter 134, Hawaii Revised Statutes, is amended by adding a new part to read as follows:

"PART I. GENERAL REGULATIONS

§134-1 Definitions. As used in this chapter, unless the context indicates otherwise:

"Acquire" means gain ownership of.

"Antique pistol or revolver" means any pistol or revolver manufactured before 1899 and any replica thereof if it either is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition or is designed or redesigned to use rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

"Chief of police" means the chief of police of the counties of Hawaii, Maui, Kauai, or the city and county of Honolulu.

"Crime of violence" means any offense, as defined in Title 37, that involves injury or threat of injury to the person of another.

“Electric gun” means any portable device that is electrically operated to project a missile or electromotive force. It does not include any electric livestock prod used in animal husbandry.

“Firearm” means any weapon, for which the operating force is an explosive, including, but not limited to, pistols, revolvers, rifles, shotguns, machine guns, automatic rifles, noxious gas projectors, mortars, bombs, cannon, and submachine guns.

“Fugitive from justice” means any person who has fled from any state, territory, the District of Columbia, or possession of the United States to avoid prosecution for a felony or to avoid giving testimony in any criminal proceeding.

“Pistol” or “revolver” means any firearm of any shape with a barrel less than sixteen inches in length and capable of discharging loaded ammunition or any noxious gas.

§134-2 Permits to acquire. (a) No person shall acquire the ownership of a firearm, whether usable or unusable, serviceable or unserviceable, modern or antique, registered under prior law or by a prior owner or unregistered, either by purchase, gift, inheritance, bequest, or in any other manner, whether procured in the State or imported by mail, express, freight, or otherwise, until the person has first procured from the chief of police of the county of the person’s place of business or, if there is no place of business, the person’s residence or, if there is neither place of business nor residence, the person’s place of sojourn, a permit to acquire the ownership of a firearm as prescribed in this section; provided that when title to any firearm is acquired by inheritance or bequest, the foregoing permit shall be obtained before taking possession of the firearm.

(b) The permit application form shall include the applicant’s name, address, sex, height, weight, date of birth, place of birth, social security number, and information regarding the applicant’s mental health history and shall require the fingerprinting and photographing of the applicant by the police department of the county of registration; provided that where fingerprints and photograph are already on file with the department, these may be waived.

(c) An applicant for a permit shall sign a waiver at the time of application, allowing the chief of police of the county issuing the permit access to any records that have a bearing on the mental health of the applicant. The permit application form and the waiver form shall be prescribed by the attorney general and shall be uniform throughout the State.

(d) The chief of police of the respective counties may issue permits to acquire firearms to citizens of the United States of the age of eighteen years or more, or duly accredited official representatives of foreign nations, or duly commissioned law enforcement officers of the State who are aliens; provided that any law enforcement officer who is the owner of a firearm and who is an alien shall transfer ownership of the firearm within forty-eight hours after termination of employment from a law enforcement agency. The chief of police of each county may issue permits to aliens of the age of eighteen years or more for use of rifles and shotguns for a period not exceeding sixty days, upon a showing that the alien has first procured a hunting license under chapter 183D, part II.

(e) The permit application form shall be signed by the applicant and by the issuing authority. One copy of the permit shall be retained by the issuing authority as a permanent official record. Except for sales to dealers licensed under section 134-31, or dealers licensed by the United States Department of the Treasury, or law enforcement officers, or where a license is granted under section 134-9, or where any firearm is registered pursuant to section 134-3(a), no permit shall be issued to a first time applicant earlier than ten calendar days after the date of the application; provided that a permit shall be issued or the application denied before

the sixteenth day from the date of application. Persons who have previously obtained permits subject to the ten-day waiting period required by this subsection and who make a subsequent application within one year of the issue date of the first permit may be issued permits in less than ten days. Permits issued to acquire any pistol or revolver shall be void unless used within ten days after the date of issue. Permits to acquire a pistol or revolver require a separate application and permit for each transaction. Permits issued to acquire any rifle or shotgun shall entitle the permittee to make subsequent purchases of rifles or shotguns for a period of one year from the date of issue without a separate application and permit for each acquisition, subject to the disqualifications under section 134-7.

(f) In all cases where a pistol or revolver is acquired from another person within the State, the permit shall be signed in ink by the person to whom title to the pistol or revolver is transferred and shall be delivered to the person who is transferring title to the firearm, who shall enter on the permit in the space provided the following information: name of the person to whom the title to the firearm was transferred; names of the manufacturer and importer; model; type of action; caliber or gauge; and serial number as applicable. The person who is transferring title to the firearm shall sign the permit in ink and cause the permit to be delivered or sent by registered mail to the issuing authority within forty-eight hours after transferring the firearm.

In all cases where receipt of a firearm is had by mail, express, freight, or otherwise from sources without the State, the person to whom the permit has been issued shall make the prescribed entries on the permit, sign the permit in ink, and cause the permit to be delivered or sent by registered mail to the issuing authority within forty-eight hours after taking possession of the firearm.

(g) No person shall sell, give, lend, or deliver into the possession of another any firearm except in accordance with this chapter.

(h) No fee shall be charged for permits under this section.

§134-3 Registration, mandatory, exceptions. (a) Every person arriving in the State who brings or by any other manner causes to be brought into the State a firearm of any description, whether usable or unusable, serviceable or unserviceable, modern or antique, shall register the firearm within three days after arrival of the person or of the firearm, whichever arrives later, with the chief of police of the county of the person's place of business or, if there is no place of business, such person's residence or, if there is neither a place of business nor residence, the person's place of sojourn; provided that no alien shall be allowed to bring a firearm of any description into the State.

(b) Every person who acquires a pistol or revolver pursuant to section 134-2 shall register the pistol or revolver in the manner prescribed by this section within five days of acquisition. The registration shall be on forms prescribed by the attorney general, which shall be uniform throughout the State, and shall include the following information: name of the manufacturer and importer; model; type of action; caliber or gauge; serial number; and source from which receipt was obtained, including the name and address of the prior registrant.

(c) Dealers licensed under section 134-31 or dealers licensed by the United States Department of the Treasury shall register firearms pursuant to this section on registration forms prescribed by the attorney general and shall not be required to have the firearms physically inspected by the chief of police at the time of registration.

(d) Registration shall not be required for:

(1) Any device designed to fire loose black powder;

- (2) Any device not designed to fire or made incapable of being readily restored to a firing condition; or
- (3) All unserviceable firearms and destructive devices registered with the Bureau of Alcohol, Tobacco, and Firearms of the U.S. Department of the Treasury pursuant to Title 27, Code of Federal Regulations.
- (e) No fee shall be charged for the registration.

§134-4 Transfer, possession of firearms. (a) No transfer of any rifle having a barrel length of sixteen inches or over or any shotgun having a barrel length of eighteen inches or over, whether usable or unusable, serviceable or unserviceable, modern or antique, registered under prior law or by a prior owner, or unregistered shall be made to any person under the age of eighteen years, except as provided by section 134-5.

(b) No person shall possess any firearm that is owned by another, regardless of whether the owner has consented to possession of the firearm, without a permit from the chief of police of the appropriate county, except as provided in subsection (c) and section 134-5.

(c) Any lawfully acquired rifle or shotgun may be lent to an adult for use within the State for a period not to exceed fifteen days without a permit; provided that where the rifle or shotgun is to be used outside of the State, the loan may be for a period not to exceed seventy-five days.

(d) No person shall knowingly lend a firearm to any person who is prohibited from ownership or possession of a firearm under section 134-7.

§134-5 Possession by licensed hunters and minors; target shooting. (a) Any person of the age of sixteen years or over or any person under the age of sixteen years while accompanied by an adult, may carry and use any lawfully acquired rifle or shotgun and suitable ammunition while actually engaged in hunting or target shooting or while going to and from the place of hunting or target shooting; provided that the person has procured a hunting license under chapter 183D, part II. A hunting license shall not be required for persons engaged in target shooting.

(b) A permit shall not be required when any lawfully acquired firearm is lent to a person, including a minor, upon a target range or similar facility for purposes of target shooting; provided that the period of the loan does not exceed the time in which the person actually engages in target shooting upon the premises.

§134-6 Place to keep firearms; loaded firearms, when prohibited; penalty. (a) Except as provided in sections 134-5 and 134-9, all firearms and ammunition shall be confined to the possessor's place of business, residence, or sojourn; provided that it shall be lawful to carry unloaded firearms or ammunition or both in an enclosed container from the place of purchase to the purchaser's place of business, residence, or sojourn, or between these places upon change of place of business, residence, or sojourn, or between these places and the following: a place of repair; a target range; a licensed dealer's place of business; an organized, scheduled firearms show or exhibit; a place of formal hunter or firearm use training or instruction; or a police station. "Enclosed container" means a rigidly constructed receptacle, or a commercially manufactured gun case, or the equivalent thereof that completely encloses the firearm.

(b) It shall be unlawful for any person on any public highway to carry on the person, or to have in the person's possession, or to carry in a vehicle any firearm loaded with ammunition; provided that the provision of this paragraph shall not apply to any person who has in the person's possession or carries a pistol or revolver and ammunition therefor in accordance with a license issued as provided in section 134-9.

(c) Any person violating this section by carrying or possessing a loaded firearm or by carrying or possessing a loaded or unloaded pistol or revolver without a license issued as provided in section 134-9 shall be guilty of a class C felony. Any person violating this section by carrying or possessing an unloaded firearm, other than a pistol or revolver, shall be guilty of a misdemeanor.

§134-7 Ownership or possession prohibited, when; penalty. (a) No person who is a fugitive from justice shall own, possess, or control any firearm or ammunition therefor.

(b) No person who is under indictment for, or has waived indictment for, or has been convicted in this State or elsewhere of having committed a felony, or any crime of violence, or an illegal sale of any drug shall own, possess, or control any firearm or ammunition therefor.

(c) No person who:

- (1) Is or has been under treatment for addiction to any dangerous, harmful, or detrimental drug, intoxicating compound as defined in section 712-1240, or intoxicating liquor;
- (2) Has been committed pursuant to sections 333F-9 or 333F-10;
- (3) Has been acquitted of a crime on the grounds of mental disease, disorder, or defect pursuant to section 704-411;
- (4) Is or has been under treatment for significant behavioral, emotional, or mental disorders as defined by the most current diagnostic manual of the American Psychiatric Association or for treatment for organic brain syndromes; or
- (5) Is less than 25 years old and has been adjudicated by the family court to have committed a crime of violence that constitutes a felony offense under Title 37, the Hawaii Penal Code;

shall own, possess, or control any firearm or ammunition therefor, unless the person has been medically documented to have been cured of the addiction, mental disease, disorder, or defect.

(d) No minor who:

- (1) Is or has been under treatment for addiction to any dangerous, harmful, or detrimental drug, intoxicating compound as defined in section 712-1240, or intoxicating liquor;
- (2) Is a fugitive from justice;
- (3) Has been adjudicated by the family court to have committed a crime of violence that constitutes a felony offense under Title 37, the Hawaii Penal Code; or
- (4) Has been determined not to have been responsible for a criminal act or has been committed to any institution on account of a mental disease, disorder, or defect;

shall own, possess, or control any firearm or ammunition therefor, unless the minor has been medically documented to have been cured of the addiction, mental disease, disorder, or defect.

For the purposes of enforcing this section, and notwithstanding section 571-84 or any other law to the contrary, any agency within the State shall make its records relating to family court adjudications available to law enforcement officials.

(e) Any person disqualified from ownership, possession, or control of firearms and ammunition by this chapter shall dispose of all firearms and ammunition in compliance with this chapter.

(f) Any person violating subsection (a) or (b) shall be guilty of a class C felony; provided that any felon violating subsection (b) shall be guilty of a class B felony. Any person violating subsection (c), (d), or (e) shall be guilty of a misdemeanor.

§134-8 Ownership, etc., of machine guns, automatic rifles, silencers, etc., prohibited; penalty. (a) The manufacture, possession, sale, barter, trade, gift, transfer, or acquisition of any of the following is prohibited: machine guns; submachine guns; automatic rifles; rifles with barrel lengths less than sixteen inches; shotguns with barrel lengths less than eighteen inches; cannon; mufflers, silencers, or devices for deadening or muffling the sound of discharged firearms; hand grenades, dynamite, blasting caps, bombs, or bombshell, or other explosives; or any type of ammunition or any projectile component thereof coated with teflon or any other similar coating or designed primarily to enhance its capability to penetrate metal or pierce protective armor; and any type of ammunition or any projectile component thereof designed or intended to explode or segment upon impact with its target.

(b) Any person violating this section shall be guilty of a class C felony and shall be imprisoned for a term of five years without probation.

§134-9 Licenses to carry. (a) In an exceptional case, when an applicant shows reason to fear injury to the applicant's person or property, the chief of police of the appropriate county may grant a license to an applicant who is a citizen of the United States of the age of twenty years or more or to a duly accredited official representative of a foreign nation of the age of twenty years or more to carry a pistol or revolver and ammunition therefor concealed on the person within the county where the license is granted. Where the urgency or the need has been sufficiently indicated, the respective chief of police may grant to an applicant of good moral character who is a citizen of the United States of the age of twenty years or more, is engaged in the protection of life and property, and is not prohibited under section 134-7 from the ownership or possession of a firearm, a license to carry a pistol or revolver and ammunition therefor unconcealed on the person within the county where the license is granted. Unless renewed, the license shall expire one year from the date of issue.

(b) The chief of police of each county shall adopt procedures to require that any person granted a license to carry a concealed weapon on the person shall:

- (1) Be qualified to use the firearm in a safe manner;
- (2) Appear to be a suitable person to be so licensed;
- (3) Not be prohibited under section 134-7 from the ownership or possession of a firearm; and
- (4) Not have been adjudged insane or not appear to be mentally deranged.

(c) No person shall carry concealed or unconcealed on the person a pistol or revolver without being licensed to do so under this section or in compliance with section 134-6.

(d) A fee of \$10 shall be charged for each license and shall be deposited in the treasury of the county in which the license is granted.

§134-10 Alteration of identification marks prohibited. No person shall willfully alter, remove, or obliterate the name of the make, model, manufacturer's number, or other mark of identity of any firearm or ammunition. Possession of a firearm or ammunition upon which any mark of identity has been altered, removed, or obliterated shall be presumptive evidence that the possessor has altered, removed, or obliterated the mark of identity.

§134-11 Exemptions. (a) Sections 134-6 to 134-9 shall not apply:

- (1) To members of police departments, sheriffs, and law enforcement officers;

- (2) To members of the armed forces of the State and of the United States and mail carriers while performing duties that require them to be armed;
 - (3) To regularly enrolled members of any organization duly authorized to purchase or receive weapons from the United States or from the State; provided the members are at or going to and from their places of assembly or target practice;
 - (4) To persons employed by the State, or subdivisions thereof, or the United States while in the performance of their respective duties or while going to and from their respective places of duty if their duties require them to be armed;
 - (5) To aliens employed by the State, or subdivisions thereof, or the United States while in the performance of their respective duties or while going to and from their respective places of duty if their duties require them to be armed;
 - (6) To police officers on official assignment in Hawaii from any state which by compact permits police officers from Hawaii while on official assignment in that state to carry firearms without registration. The governor of the State or the governor's duly authorized representative may enter into compacts with other states to carry out this section.
- (b) Sections 134-2 and 134-3 shall not apply to such firearms or ammunition that are a part of the official equipment of any federal agency.

§134-12 Firearms forfeited, when. All firearms or ammunition carried or possessed contrary to law shall be forfeited to the State and shall be destroyed or, if not destroyed retained by the chief of police of any county for use by and under control of the police department in whose jurisdiction they are forfeited.

§134-13 Revocation of permits. All permits and licenses provided for under this part may be revoked, for good cause, by the issuing authority or by the judge of any court.

§134-14 Report. Within ten days after the last day of each month, each of the authorities authorized in this chapter to issue or revoke permits and licenses shall make a report to the department of the attorney general of all permits and licenses issued or revoked by the authority as of the last day of the preceding month. The report shall be in the manner and form as the attorney general may prescribe.

§134-15 Restriction of materials for manufacture of pistols or revolvers.

(a) It shall be unlawful for any person, including a licensed manufacturer, licensed importer, or licensed dealer, to possess, sell, or deliver any pistol or revolver the frame or receiver of which is a die casting of zinc alloy which has a melting temperature of less than 800 degrees Fahrenheit.

(b) This section shall not apply to any pistol or revolver duly registered prior to July 1, 1975 pursuant to section 134-3 or to any antique pistol or revolver.

§134-16 Restriction on possession, sale, gift, or delivery of electric guns.

(a) It shall be unlawful for any person, including a licensed manufacturer, licensed importer, or licensed dealer, to possess, offer for sale, hold for sale, sell, give, lend, or deliver any electric gun.

(b) Any electric gun in violation of subsection (a) shall be confiscated and disposed of by the chief of police.

§134-17 Penalties. (a) If any person gives false information or offers false evidence of the person's identity in complying with any of the requirements of this part, that person shall be guilty of a misdemeanor.

(b) Any person who violates section 134-3(a) shall be guilty of a petty misdemeanor.

(c) Any person who violates section 134-2, 134-3(b), 134-4, 134-10, 134-15, or 134-16(a) shall be guilty of a misdemeanor.

(d) Any person who violates section 134-9 shall be guilty of a class C felony."

SECTION 3. Section 134-32, Hawaii Revised Statutes, is amended to read as follows:

"§134-32 License to sell and manufacture firearms; conditions. Every license issued pursuant to this part shall be issued and shall be regarded as having been accepted by the licensee subject to the following conditions:

- (1) That the licensee shall at all times comply with all provisions of law relative to the sale of firearms.
- (2) That the license may during any time of national emergency or crisis, as defined in section 134-34, be canceled or suspended.
- (3) That all firearms in the possession and control of any licensee may at any time of national emergency or crisis, as defined in section 134-34, be seized and held in possession or purchased by or on the order of the governor until such time as the national emergency or crisis has passed, or until such time as the licensee and the government of the United States or the government of the State may agree upon some other disposition of the same.
- (4) That all firearms in the possession and control of the licensee or registered pursuant to section 134-3(e) by the licensee shall be subject to physical inspection by the chief of police of each county during normal business hours at the licensee's place of business."

SECTION 4. Chapter 134, part I, Hawaii Revised Statutes, is repealed.

SECTION 5. If any other Act passes during this Regular Session of 1988 amending part I of chapter 134, Hawaii Revised Statutes, the Act shall be appropriately placed in the recodification of chapter 134, Hawaii Revised Statutes, enacted by this Act.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 13, 1988.)

ACT 276

S.B. NO. 2462

A Bill for an Act Relating to Protection of Streams.

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

SECTION 1. Section 174C-31, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) To prepare the water resources protection and quality plan, the commission shall:

- (1) [study] Study and inventory the existing water resources of the State and the means and methods of conserving and augmenting such water resources;

- (2) [review] Review existing and contemplated needs and uses of water including state and county land use plans and policies and study their effect on the environment, procreation of fish and wildlife, and water quality;
- (3) [study] Study the quantity and quality of water needed for existing and contemplated uses, including irrigation, power development, geothermal power, and municipal uses;
- (4) Identify rivers or streams, or a portion of a river or stream, which appropriately may be placed within a wild and scenic rivers system, to be preserved and protected as part of the public trust. For the purposes of this paragraph, the term "wild and scenic rivers" means rivers or streams, or a portion of a river or stream, of high natural quality or that possess significant scenic value, including but not limited to, rivers or streams which are within the natural area reserves system. The commission shall report its findings to the legislature twenty days prior to the convening of each regular legislative session; and
- (5) [study] Study such other related matters as drainage, reclamation, flood hazards, floodplain zoning, dam safety, and selection of reservoir sites, as they relate to the protection, conservation, quantity, and quality of water.

The water resource protection plan shall include, but not be limited to:

- (1) Nature and occurrence of water resources in the State;
- (2) Hydrologic units and their characteristics, including the quantity and quality of available resource, requirements for beneficial instream uses and environmental protection, desirable uses worthy of preservation by permit, and undesirable uses for which permits may be denied;
- (3) Existing and contemplated uses of water, as identified in the water use and development plans of the State and the counties, their impact on the resource, and their consistency with objectives and policies established in the water resource protection quality plan;
- (4) Programs to conserve, augment, and protect the water resource; and
- (5) Other elements necessary or desirable for inclusion in the plan.

Thereafter, the commission in coordination with the counties and the department of health shall formulate an integrated coordinated program for the protection, conservation, and management of the waters in each county based on the above studies. This program, with such amendments, supplements, and additions as may be necessary, shall be known as the water resource protection and quality plan.

Thereafter, each county shall prepare a water use and development plan and the appropriate state agency shall prepare the state water projects plan. Each county water use and development plan shall include but not be limited to:

- (1) Status of water and related land development including an inventory of existing water uses for domestic, municipal, and industrial users, agriculture, aquaculture, hydropower development, drainage, reuse, reclamation, recharge, and resulting problems and constraints;
- (2) Future land uses and related water needs; and
- (3) Regional plans for water developments including recommended and alternative plans, costs, adequacy of plans, and relationship to water resource protection and quality plan."

SECTION 2. Section 174C-71, Hawaii Revised Statutes, is amended to read as follows:

"[§174C-71[] Protection of instream uses. The commission shall establish and administer a statewide instream use protection program. In carrying out

this part, the commission shall cooperate with the United States government or any of its agencies, other state agencies, and the county governments and any of their agencies. In the performance of its duties the commission shall:

- (1) Establish instream flow standards on a stream-by-stream basis whenever necessary to protect the public interest in waters of the State;
 - (A) The commission, on its own motion, may determine that the public interest in the waters of the State requires the establishment of an instream flow standard for streams;
 - (B) In acting upon the establishment of instream flow standards, the commission shall set forth in writing its conclusion that the public interest does or does not require, as is appropriate, an instream flow standard to be set for the stream, the reasons therefor, and the findings supporting the reasons;
 - (C) Each instream flow standard shall describe the flows necessary to protect the public interest in the particular stream. Flows shall be expressed in terms of variable flows of water necessary to protect adequately fishery, wildlife, recreational, aesthetic, scenic, or other beneficial instream uses in the stream in light of existing and potential water developments including the economic impact of restriction of such use;
 - (D) Establishment or modification of an instream flow standard shall be initiated by the commission by providing notice of its intention to set an instream flow standard in a newspaper of general circulation published in the vicinity of the stream in question, to the mayor of the appropriate county, and to persons who have previously requested such notice in writing;
 - (E) After giving notice of its intention to set an instream flow standard, the commission or other agencies in participation with the commission shall investigate the stream. During the process of this investigation, the commission shall consult with and consider the recommendations of the department of health, the aquatic biologist of the department of land and natural resources, the natural area reserves system commission, the university of Hawaii cooperative fishery unit, the United States Fish and Wildlife Service, the mayor of the county in which the stream is located, and other agencies having interest in or information on the stream, and may consult with and consider the recommendations of persons having interest in or information on the stream. In formulating the proposed standard, the commission shall weigh the importance of the present or potential instream values with the importance of the present or potential uses of water from the stream for noninstream purposes, including the economic impact of restriction of such uses. In order to avoid or minimize the impact on existing uses of preserving, enhancing, or restoring instream values, the commission shall consider physical solutions, including water exchanges, modifications of project operations, changes in points of diversion, changes in time and rate of diversion, uses of water from alternative sources, or any other solution;
 - (F) Before adoption of an instream flow standard or modification of an established instream flow standard, the commission shall give notice and hold a hearing on its proposed standard or modification;
- (2) Establish interim instream flow standards;

- (A) Any person with the proper standing may petition the commission to adopt an interim instream flow standard for streams in order to protect the public interest pending the establishment of a permanent instream flow standard;
 - (B) Any interim instream flow standard adopted under this section shall terminate upon the establishment of a permanent instream flow standard for the stream on which the interim standards were adopted;
 - (C) A petition to adopt an interim instream flow standard under this section shall set forth data and information concerning the need to protect and conserve beneficial instream uses of water and any other relevant and reasonable information required by the commission;
 - (D) In considering a petition to adopt an interim instream flow standard, the commission shall weigh the importance of the present or potential instream values with the importance of the present or potential uses of water for noninstream purposes, including the economic impact of restricting such uses;
 - (E) The commission shall grant or reject a petition to adopt an interim instream flow standard under this section within one hundred eighty days of the date the petition is filed. The one hundred eighty days may be extended a maximum of one hundred eighty days at the request of the petitioner and subject to the approval of the commission;
 - (F) Interim instream flow standards may be adopted on a stream-by-stream basis or may consist of a general instream flow standard applicable to all streams within a specified area;
- (3) Protect stream channels from alteration whenever practicable to provide for fishery, wildlife, recreational, aesthetic, scenic, and other beneficial instream uses;
- (A) The commission shall require persons to obtain a permit from the commission prior to undertaking a stream channel alteration; provided that routine streambed and drainageway maintenance activities and maintenance of existing facilities are exempt from obtaining a permit;
 - (B) Projects which have commenced construction or projects reviewed and approved by the appropriate federal, state, or county agency prior to July 1, 1987, shall not be affected by this part;
 - (C) The commission shall establish guidelines for processing and considering applications for stream channel alterations consistent with section 174C-93;
 - (D) The commission shall require filing fees by users to accompany each application for stream channel alteration;
- (4) Establish an instream flow program to protect, enhance, and reestablish, where practicable, beneficial instream uses of water. The commission shall conduct investigations and collect instream flow data including fishing, wildlife, aesthetic, recreational, water quality, and ecological information and basic streamflow characteristics necessary for determining instream flow requirements.

The commission shall implement its instream flow standards when disposing of water from state watersheds, including that removed by wells or tunnels where they may affect stream flow, and when regulating use of lands and waters within the state conservation district, including water development.”

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

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

(Approved June 13, 1988.)

ACT 277

S.B. NO. 2468

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds to Assist Utilities Serving the General Public.

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 and refunding special purpose revenue bonds under this Act will assist the utilities providing electric service to the general public in obtaining lower interest rate bond financing for capital improvement projects, through the use of tax exempt special purpose revenue bonds and refunding bonds. This savings in interest cost would be reflected in the electric rates established by the public utilities commission in rate case proceedings. Ratepayers pay for capital costs, including the cost of financing, as part of the rates set by the public utilities commission. Therefore, the entire savings resulting from the reduction in capital costs will benefit the ratepayers. Furthermore, these bonds cannot be secured directly or indirectly by the general credit of the counties or the revenues or taxes of the State but rather solely by the utilities. Thus, the cost of financing necessary capital improvements can be decreased with no cost or risk to the State. For the foregoing reasons, the legislature finds and declares that the issuance under this Act of special purpose revenue bonds and refunding special purpose revenue bonds is in the public interest and for the public health, safety, and general welfare. Hawaiian Electric Company, Hawaii Electric Light Company, Maui Electric Company, and Kauai Electric Division of Citizens Utilities Company are electric utilities serving the general public that qualify for special purpose revenue bonds pursuant to chapter 39A, part VI, Hawaii Revised Statutes.

SECTION 2. The department of budget and finance is authorized to issue special purpose revenue bonds in one or more series in a total amount not to exceed \$165,410,000 for the following capital improvement programs which are multi-project programs for the local furnishing of electric energy by electric utilities serving the general public:

Company	Amount of Authorization
Hawaiian Electric Company, Oahu Multi-project capital improvement program, including generating facilities and power plant additions or electric systems or both, for the financing of which special purpose revenue bonds will be issued during the period from July 1, 1988 through December 31, 1991	\$97,410,000
Hawaii Electric Light Company, Hawaii Multi-project capital improvement program, including the acquisition of land, generating facilities (including a new fossil fuel generating unit on the island of Ha-	

waii) and power plant additions or electric systems or both, for the financing of which special purpose revenue bonds will be issued during the period from July 1, 1988 through December 31, 1991	\$24,000,000
Kauai Electric Division of Citizens Utilities Company, Kauai Multi-project capital improvement program, including acquisition of land, transmission lines, generating facilities (including two additional diesel generating units at the Port Allen station), and other power plant additions or electric systems or both, for the financing of which special purpose revenue bonds will be issued during the period from July 1, 1988 through December 31, 1991	\$34,000,000
Maui Electric Company, Maui Multi-project capital improvement program, including the acquisition of land, generating facilities (including a new fossil fuel generating unit on the island of Maui) and power plant additions or electric systems or both, for the financing of which special purpose revenue bonds will be issued during the period from July 1, 1988 through December 31, 1991	\$10,000,000

provided that public utilities commission approval shall be required for any project financed by the issuance of special purpose revenue bonds under this Act, and provided further that, of the amount authorized in this section, none shall be used for nuclear fuel generating units.

SECTION 3. The public utilities commission shall report annually to the legislature as to the progress under this Act in reducing financing costs of electric utilities, including the cost of the bonds at the time of issue as compared to the cost to the utility if the issue was made on other than the revenue bond provision, the estimated benefits derived from the use of the special purpose revenue bonds, and a listing of the projects to be funded by the special purpose revenue bonds.

SECTION 4. The department of budget and finance is authorized to issue from time to time, including times subsequent to December 31, 1991, refunding 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 any refunding 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, and 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 special purpose revenue bonds and the refunding special purpose revenue bonds issued under this Act shall be issued pursuant to chapter 39A, part VI, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds and refunding special purpose revenue bonds to assist utilities serving the general public in providing electric energy.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 13, 1988.)

ACT 278

S.B. NO. 2501

A Bill for an Act Relating to the Real Estate Commission.

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

SECTION 1. The purpose of this Act is to appropriate funds for a temporary condominium specialist position in the real estate commission to respond to questions and problems associated with condominiums. The legislature finds that many of the recent concerns relating to condominiums result from a lack of a clear understanding of the condominium laws of this State, and that the condominium specialist position will help to clarify these laws. Additionally, this temporary position is also expected to help satisfy the need for many of the proposed legislative solutions, including the need for a condominium commission.

SECTION 2. The department of commerce and consumer affairs is authorized to establish and fill one temporary condominium specialist position exempt from the provisions of chapters 76 and 77 to assist consumers with information, advice, and referral on chapter 514A, Hawaii Revised Statutes, and chapter 16-107, Hawaii administrative rules, relating to horizontal property regimes.

The condominium specialist shall have administrative, professional, and analytical work experience which demonstrates an ability to plan and coordinate activities and deal effectively with others.

To provide sufficient time for the condominium specialist to carry out the duties described in this Act, it is the legislative intent that this temporary position remain in existence until June 30, 1990.

Twenty days prior to the convening of the 1991 regular session, the department of commerce and consumer affairs shall submit to the legislature a report: evaluating the effectiveness of the position in responding to condominium-related inquiries; identifying any major problem areas; and, if appropriate, recommending legislation to resolve these problems.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$30,000 or so much thereof as may be necessary for fiscal year 1988-1989, to hire a temporary condominium specialist to carry out the purposes of this Act. The sum appropriated shall be expended by the department of commerce and consumer affairs.

SECTION 4. This Act shall take effect on July 1, 1988.

(Approved June 13, 1988.)

ACT 279

S.B. NO. 2517

A Bill for an Act Relating to the Hawaii Penal Code.

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

SECTION 1. Section 707-711, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of assault in the second degree if:

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- (a) The person intentionally or knowingly causes substantial bodily injury to another;
- (b) The person recklessly causes serious bodily injury to another person;
- (c) The person intentionally or knowingly causes bodily injury to a correctional worker, as defined in section 710-1031(2), who is engaged in the performance of duty or who is within a correctional facility;
- (d) The person intentionally or knowingly causes bodily injury to another person with a dangerous instrument; or
- (e) The person intentionally or knowingly causes bodily injury to an educational worker who is engaged in the performance of duty or who is within an educational facility. For the purposes of this section, "educational worker" means any administrator, specialist, counselor, teacher, or employee of the department of education, or a person who is a volunteer in a school program, activity, or function that is established, sanctioned, or approved by the department of education or a person hired by the department of education on a contractual basis and engaged in carrying out an educational function."

SECTION 2. New statutory material is underscored.

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

(Approved June 13, 1988.)

ACT 280

S.B. NO. 2521

A Bill for an Act Relating to Expenses for Extradition and Return.

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

SECTION 1. Section 621-9, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"§621-9 Witness and defendant expenses; budgetary procedure.¹ (b)

Whenever the presence of a defendant in a criminal case or in a proceeding under chapter 704 or a petitioner in a post conviction proceeding who is outside the judicial circuit is mandated by court order or bench warrant to appear, the cost of airfare, ground transportation, any per diem for both the defendant or petitioner and sufficient law enforcement officers to effect the defendant's or petitioner's return, shall be borne by the State. All such expenses shall be certified by the court or public prosecutor or the attorney general. Duly certified claims for payment shall be paid upon vouchers approved by the state director of finance and warrants drawn by the state comptroller. [For post conviction proceedings only, and at the discretion and order of the] The court[,] may order the non-indigent defendant or petitioner who was returned to the State of Hawaii [shall] to reimburse the State for the costs of such extradition or return as specifically described above."

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

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

(Approved June 13, 1988.)

Note

1. So in original.

ACT 281

S.B. NO. 2523

A Bill for an Act Relating to Parking Violations.

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

SECTION 1. Section 612-8, Hawaii Revised Statutes, is amended to read as follows:

“§612-8 Pay of jurors; mileage fee[.]; parking violations exemption. (a) Each juror shall be paid \$30 for each day of actual attendance at court. In addition, each juror shall be paid 20 cents for each mile actually and necessarily traveled in going to and from court. A person who appears at the time for which that person is summoned to court for jury duty may be allowed the mileage fee although the person, upon that person's request, is subsequently excused or exempted from jury service.

(b) In the discretion of the court, any juror who incurs expenses for transportation, board, and lodging as a result of the distance the juror resides from the location of the court, may be reimbursed for actual expenses.

(c) All jurors shall be exempt from any prosecution, penalty, or fine as a result of a parking violation committed in connection with the juror appearing at court for jury duty; provided that the juror shall present any parking citation received during this time to the court clerk of the circuit court or jury pool clerk, as appropriate, who shall verify that the juror was serving on jury duty at the time the citation was received. The clerk of the circuit court or the jury pool clerk, as appropriate, shall keep an attendance roll in which shall be entered each juror's name, each date the juror was summoned and appeared for jury duty, and the date the juror was discharged from service. The supreme court shall adopt rules necessary to effect this section.”

SECTION 2. Section 621-8, Hawaii Revised Statutes, is amended to read as follows:

“§621-8 Attendance roll[.]; parking violations exemption. (a) The clerk of each circuit court shall keep an attendance roll, in which shall be entered the name of each witness subpoenaed for the prosecution in criminal cases in the circuit, the name of each witness subpoenaed for the defendant at the expense of the State under order of the court, where each witness was subpoenaed or summoned, the date of appearance, the date of discharge, the number of days' attendance with the dates thereof, the place of residence of the witness and the number of miles necessarily traveled by the witness to the place of holding court. For all other witnesses in civil and criminal cases, including cases in family court, the clerk of each court shall keep an attendance roll in which shall be entered the name of each witness subpoenaed or summoned, each date the witness appeared, and the date of discharge.

(b) All witnesses summoned or subpoenaed to appear in any circuit court case shall be exempt from any prosecution, penalty, or fine as a result of a parking violation committed in connection with the witness appearing in court; provided that the witness shall present any parking citation received during this time to the clerk of the court and the clerk shall verify that the witness was present at the time the citation was received. The supreme court shall adopt rules necessary to effect this section.”

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SECTION 3. Chapter 291C, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§291C- Liability of lessee for parking citation. Notwithstanding any other law to the contrary, if the registered owner of record is the lessor of a rental or U-drive motor vehicle, as defined in section 286-2 pursuant to a written lease agreement, the lessee at the time of the issuance of the parking citation shall be responsible for such summons or citation; provided, however, said lessor shall be responsible for such summons or citation if the lessor does not provide the court having jurisdiction over the summons or citation the name and address of the lessee within forty-five days after a notice containing the date, time, and location of the violation and the license number of the vehicle is sent to lessor; provided further that the administrative judge of the court having jurisdiction over the citation or summons may waive the requirement of providing the name and address of the lessee by the lessor and impose an administrative fee of five dollars per citation on the lessor.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 5. This Act shall take effect upon its approval; except that it shall not apply to citations issued prior to the effective date of this Act.

(Approved June 13, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 282

S.B. NO. 2559

A Bill for an Act Relating to Sentencing and Parole.

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

SECTION 1. Section 706-669, Hawaii Revised Statutes, is amended to read as follows:

“§706-669 Procedure for determining minimum term of imprisonment.

(1) When a person has been sentenced to an indeterminate or an extended term of imprisonment, the Hawaii paroling authority shall, as soon as practicable but no later than six months after commitment to the custody of the director of the department of social services and housing hold a hearing, and on the basis of the hearing make an order fixing the minimum term of imprisonment to be served before the prisoner shall become eligible for parole.

(2) Before holding the hearing, the authority shall obtain a complete report regarding the prisoner's life before entering the institution and a full report of his progress in the institution. The report shall be a complete personality evaluation for the purpose of determining his degree of propensity toward criminal activity.

(3) The prisoner shall be given reasonable notice of the hearing under subsection (1) and shall be permitted to be heard by the authority on the issue of the minimum term to be served before he becomes eligible for parole. In addition, he shall:

- (a) Be permitted to consult with any persons he reasonably desires, including his own legal counsel¹ in preparing for the hearing;

- (b) Be permitted to be represented and assisted by counsel at the hearing;
 - (c) Have counsel appointed to represent and assist him if he so requests and cannot afford to retain counsel; and
 - (d) Be informed of his rights under (a), (b), and (c).
- (4) The authority in its discretion may, in any particular case and at any time, impose a special condition that the prisoner will not be considered for parole unless and until he has a record of continuous exemplary behavior.
- (5) The authority in its discretion may reduce the minimum term fixed by its order pursuant to subsection (1).
- (6) A verbatim stenographic or mechanical record of the hearing shall be made and preserved in transcribed or untranscribed form.
- (7) The State shall have the right to be represented at the hearing by the prosecuting attorney who may present written testimony and make oral comments and the authority shall consider such testimony and comments in reaching its decision. The authority shall notify the prosecuting attorney of the hearing at the time the prisoner is given notice of the hearing. The hearing shall be opened to victims or their designees or surviving immediate family members.
- (8) The authority shall establish guidelines for the uniform determination of minimum sentences which shall take into account both the nature and degree of the offense of the prisoner and the prisoner's criminal history and character. The guidelines shall be public records and shall be made available to the prisoner and to the prosecuting attorney and other interested government agencies."

SECTION 2. Section 706-670, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) Parole hearing. A person sentenced to an indeterminate term of imprisonment shall receive an initial parole hearing at least one month before the expiration of the minimum term of imprisonment determined by the Hawaii paroling authority pursuant to section 706-669. If parole is not granted at that time, additional hearings shall be held at twelve-month intervals or less until parole is granted or the maximum period of imprisonment expires. The State shall have the right to be represented at the hearing by the prosecuting attorney who may present written testimony and make oral comments and the authority shall consider such testimony and comments in reaching its decision. The authority shall notify the appropriate prosecuting attorney of the hearing at the time the prisoner is given notice of the hearing."

SECTION 3. New statutory material is underscored.

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

(Approved June 13, 1988.)

Note

1. Prior to amendment, "," appeared here.

A Bill for an Act Relating to Promoting Pornography for Minors.

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

SECTION 1. Section 712-1215, Hawaii Revised Statutes, is amended to read as follows:

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"§712-1215 Promoting pornography for minors. (1) A person commits the offense of promoting pornography for minors if:

- (a) Knowing its character and content, he disseminates to a minor material which is pornographic for minors; or
- (b) Knowing the character and content of a motion picture film or other performance which, in whole or in part, is pornographic for minors, he:
 - (i) Exhibits such motion picture film or other performance to a minor; or
 - (ii) Sells to a minor an admission ticket or pass to premises where there is exhibited or to be exhibited such motion picture film or other performance; or
 - (iii) Admits a minor to premises where there is exhibited or to be exhibited such motion picture film or other performance.

(2) Subsection (1) does not apply to a parent, guardian, or other person in loco parentis to the minor, or to a sibling of the minor, or to a person who commits any act specified therein in his capacity as a member of the staff of any public library.

(3) Promoting pornography for minors is a [misdemeanor] class C felony."

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

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

(Approved June 13, 1988.)

ACT 284

S.B. NO. 2565

A Bill for an Act Relating to Uniform Controlled Substance.

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

SECTION 1. Chapter 712, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§712- Promoting a controlled substance in, on or near schools. (1) A person commits the offense of promoting a controlled substance in, on or near schools if he knowingly:

- (a) Distributes a controlled substance in any amount in or on the real property comprising a public or private elementary or secondary school; or
- (b) Distributes a controlled substance in any amount within seven hundred and fifty feet of the real property comprising a public or private elementary or secondary school.

(2) Promoting a controlled substance in, on, or near schools is a class C felony.

(3) Any person with prior conviction or convictions under this section is punishable by a term of imprisonment of not less than two years and not more than ten years:

- (a) Any individual convicted under subsection (3) of this section shall not be eligible for parole until the individual has served the minimum sentence required by such subsection."

SECTION 2. New statutory material is underscored.¹

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

(Approved June 13, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 285

S.B. NO. 2578

A Bill for an Act Relating to Penal Code.

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

SECTION 1. Section 707-713, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of reckless endangering in the first degree if he employs widely dangerous means in a manner which recklessly places another person in danger of death or serious bodily injury or intentionally fires a firearm in a manner which recklessly places another person in danger of death or serious bodily injury.”

SECTION 2. New statutory material is underscored.

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

(Approved June 13, 1988.)

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S.B. NO. 2680

A Bill for an Act Relating to Taxicabs.

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

SECTION 1. **Findings and purpose.** The legislature finds that traffic congestion is a critical problem facing the State. The solution may lie in a combination of strategies that reduce the number of motor vehicles on our roadways. Any strategy that promotes and encourages ridesharing with the effect of lessening the number of private vehicles on the road should be encouraged. Taxicabs have the potential for promoting ridesharing between passengers, much like a jitney service. This would serve to reduce the number of private vehicles on the roads, and could open up an entirely new means of rush hour commuter travel. This potential, however, is not realized presently. The purpose of this Act is to authorize the counties to establish shared-ride taxicab service.

SECTION 2. Section 46-16.5, Hawaii Revised Statutes, is amended to read as follows:

“[§46-16.5] Public passenger vehicle regulation. (a) The legislature finds and declares the following:

- (1) The orderly regulation of vehicular traffic on the streets and highways of Hawaii is essential to the welfare of the State and its people.

- (2) Privately-operated public passenger vehicle service provides vital transportation links within the State. Public passenger vehicle service operated in the counties [and the city and county] enables the State to provide the benefits of privately-operated, demand-responsive transportation services to its people and to persons who travel to the State for business or tourist purposes.
- (3) The economic viability and stability of privately-operated public passenger vehicle service is consequently a matter of statewide importance.
- (4) The policy of the State is to promote safe and reliable privately-operated public passenger vehicle service in order to provide the benefits of that service. In furtherance of this policy, the legislature recognizes and affirms that the regulation of privately-operated public passenger vehicle service is an essential governmental function.
- (5) The policy of the State is to require that counties regulate privately-operated public passenger vehicle service and not subject a county [or a city and county] or its officers to liability under the federal antitrust laws.
- (6) The policy of the State is to further promote privately-operated public passenger vehicle service, including but not limited to, the picking-up and discharge of passengers from various unrelated locations by taxicabs.
 - (b) Any other law to the contrary notwithstanding, where not within the jurisdiction of the public utilities commission, every county [or city and county] may provide rules to protect the public health, safety, and welfare by licensing, controlling, and regulating, by ordinance or resolution, public passenger vehicle service operated within the jurisdiction of the county [or city and county.]; provided that the counties shall promote the policies set forth in subsection (a).
 - (c) Every county [or city and county] is empowered to regulate:
 - (1) Entry into the business of providing public passenger vehicle service within the jurisdiction of that county [or city and county].
 - (2) The rates charged for the provision of public passenger vehicle service.
 - (3) The establishment of stands to be employed by one or a limited number of providers of public passenger vehicle service."

SECTION 3. Section 271-5, Hawaii Revised Statutes, is amended to read as follows:

- "§271-5 Exemptions, generally.** Notwithstanding any other provisions of this chapter, its contents shall not apply to:
- (1) Persons transporting their own property where the transportation is in furtherance of a primary business purpose or enterprise of that person, except where the transportation is undertaken by a motor carrier to evade the regulatory purposes of this chapter.
 - (2) Persons operating motor vehicles when engaged in the transportation of school children and teachers to and from school, and to and from school functions; provided that these persons may engage in providing transportation at special rates for groups of persons belonging to an eleemosynary or benevolent organization or association domiciled in this State where the organization or association sponsors or is conducting a nonregular excursion, provided that whenever the persons engage in the transportation of persons other than those exempted in this paragraph, that portion of their operation shall not be exempt from [the provisions contained in] this chapter. Nothing [herein] in this paragraph shall be construed to authorize any person to engage in the

- transportation of persons, other than the transportation of persons exempted by the terms of this paragraph, without a permit or certificate issued by the commission authorizing such transportation.
- (3) Persons operating taxicabs or other motor vehicles utilized in performing a bona fide [metered] taxicab service. "Taxicab" [means and] includes:
- (A) Any motor vehicle used in the movement of passengers on the public highways under the following circumstances, namely the passenger hires the vehicle on call or at a fixed stand, with or without baggage for transportation, and controls the vehicle to the passenger's destination; [and]
- (B) Any motor vehicle for hire having seating accommodations for eight or fewer passengers used in the movement of passengers on the public highways that may, as part of a continuous trip, pick up or discharge passengers from various unrelated locations; provided that they shall be regulated by the counties in accordance with section 46-16.5(c); and provided further that this subparagraph shall not apply to any exclusive rights granted by the department of transportation for taxicab services at facilities under the department's control; and
- [B)] (C) Any motor vehicle having seating accommodations for eight or less passengers used in the movement of passengers on the public highways between a terminal, i.e. a fixed stand, in the Honolulu district, as defined in section 4-1 and a terminal in a geographical district outside the limits of the Honolulu district, and vice versa, without picking up passengers other than at the terminals or fixed stands; provided that the passengers may be picked up by telephone call from their homes in the rural area or may be unloaded at any point between the fixed stands or may be delivered to their homes in the rural area.
- (4) Persons operating motor vehicles in the transportation of persons pursuant to a franchise from the legislature and whose operations are presently regulated under chapter 269.
- (5) Nonprofit agricultural cooperative associations to the extent that they engage in the transportation of their own property or the property of their members.
- (6) Persons operating motor vehicles specially constructed for the towing of disabled or wrecked vehicles but not otherwise used in the transportation of property for compensation or hire.
- (7) Persons operating motor vehicles in the transportation of mail, newspapers, periodicals, magazines, messages, documents, letters, or blue-prints.
- (8) Persons operating funeral cars or ambulances.
- (9) Persons operating motor vehicles in the transportation of garbage or refuse.
- (10) Persons operating the type of passenger carrying motor vehicles known as "sampan buses" within the radius of twenty miles from the city of Hilo, Hawaii.
- (11) Persons transporting unprocessed pineapple to a cannery and returning any containers used in such transportation to the fields.
- (12) Sugar plantations transporting sugarcane, raw sugar, molasses, sugar by-products, and farming supplies for neighboring farmers pursuant to contracts administered by the United States Department of Agriculture.

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- (13) Persons engaged in the ranching or meat or feed business who transport cattle to slaughterhouses for hire where such transportation is their sole transportation for hire and where their earnings from the transportation constitute less than fifty per cent of their gross income from their business and the transportation for hire.
- (14) Persons transporting unprocessed raw milk to processing plants and returning any containers used in such transportation to dairy farms for reloading.
- (15) Persons transporting animal feeds to animal husbandry farmers and farming supplies directly to animal husbandry farmers and returning any containers used in such transportation to these sources of such feeds and supplies for reloading.
- (16) Persons engaged in transporting not more than fifteen passengers between their places of abode, or termini near such places, and their places of employment in a single daily round trip where the driver is also on the driver's way to or from the driver's place of employment.
- (17) Persons transporting passengers without charge in motor vehicles owned or operated by such person, where such transportation is provided in conjunction with and in furtherance of a related primary business purpose or enterprise of that person, and such transportation is provided only directly to and from the place of business of such person, except that this exemption shall not apply to persons making any contract, agreement, or arrangement to provide, procure, furnish, or arrange for transportation as a travel agent or broker or a person engaged in tour or sightseeing activities, nor shall this exemption apply where the transportation is undertaken by a person to evade the regulatory purposes of this chapter."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved June 13, 1988.)

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S.B. NO. 2773

A Bill for an Act Relating to Heads of Departments.

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

SECTION 1. Section 87-11, Hawaii Revised Statutes, is amended to read as follows:

"§87-11 Composition of board. The board of trustees shall consist of nine trustees, three of whom shall be representatives from different organizations representing public employees, three from different private business organizations, a member of the clergy, a teacher, and the director of finance[.] or a designated representative."

SECTION 2. Section 88E-4, Hawaii Revised Statutes, is amended to read as follows:

"[§88E-4] Composition of the board of trustees. The board of trustees shall consist of seven members as follows:

- (1) The director of personnel services of the State who shall serve as its chairperson;
- (2) The director of finance of the State[,] or a designated representative, ex officio;
- (3) Five other persons, three of whom shall be public employees and represent employee interests.”

SECTION 3. Section 226-53, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“§226-53 Policy council; composition; voting rights. (a) There is established a policy council whose membership shall include the following:

- (1) The planning director from each county.
- (2) Nine public members, being four from the city and county of Honolulu, one from the county of Kauai, and two from each of the counties of Maui and Hawaii; provided that in the case of the county of Maui, one such public member shall be from Molokai or Lanai and, in the case of the county of Hawaii, one public member shall be from west Hawaii and one from east Hawaii, appointed by the governor from a list of public persons from each county which shall through its mayor or council, submit no less than three names for each appointive public member to which the county is entitled. The governor shall request lists of public persons from the respective mayors for appointment to the policy council. Within thirty days following the date of the governor's request, the mayor of the respective county shall submit the list to the council of the respective county for advice and consent. Within sixty days of the date of the governor's request, the mayor shall submit the list of public persons, with the advice and consent of the council of the respective county, to the governor for appointment to the policy council. If the mayor fails to submit a list to the council within thirty days of the date of the governor's request, the council shall submit a list to the governor within sixty days of the governor's request. If a list of public persons is not submitted by either the mayor or the council to the governor within sixty days following the date of the request for such a list, the governor shall appoint the public members from that county in accordance with the applicable geographic representation set forth above without nominations from that mayor.
- (3) The directors or [chairmen] chairpersons from the departments of agriculture, budget and finance, [business and economic development,] land and natural resources, health, human services, transportation, and labor and industrial relations; the director of business and economic development or a designated representative; [from] the director [office] of environmental quality control; the superintendent of education; the president of the University of Hawaii; the executive director of the housing finance and development corporation; the executive officer of the land use commission; and the director of the office of state planning.

The director of the office of state planning shall serve as chairman of the council.

The terms of the nine members from the public shall be for four years; provided that the governor may reduce the terms of those initially appointed so as to provide, as nearly as can be, for the expiration of an equal number of terms at intervals of one year. Each such term shall commence on January 1 and expire on December 31; provided that the governor may establish the commencing and expiration dates of the terms of those initially appointed. No member from the public

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shall be appointed consecutively to more than two terms; provided that membership shall not exceed eight consecutive years. No member from the public shall serve on any other public board or commission. The governor may remove or suspend for cause any member of the council after due notice and public hearing.

Expenses incurred by a state governmental member participating in policy council deliberations shall be borne by the member's respective governmental agency. Travel expenses incurred by planning directors participating in policy council deliberations shall be reimbursed by the office of state planning. A public member shall receive no compensation for the member's services, but each shall be reimbursed by the office of state planning for necessary expenses incurred in the performance of the member's duties."

SECTION 4. Section 201E-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The corporation shall be headed by a board of directors which consists of eight members, of whom six shall be public members appointed by the governor as provided in section 26-34. Two public members shall be appointed at large; the remaining public members shall be appointed from each of the counties of Honolulu, Hawaii, Maui, and Kauai. The director of [planning] business and economic development, or a designated representative, and the special assistant for housing shall be ex officio voting members."

SECTION 5. Section 307-2, Hawaii Revised Statutes, is amended to read as follows:

“§307-2 Board of directors; composition. The affairs of the research corporation shall be under the general management and control of the board of directors, hereinafter referred to as the “board”. The board shall consist of nine members. The president and director of research of the University of Hawaii, and the director of business and economic development of the State, or a designated representative, shall serve as ex officio voting members. The remaining six members shall be appointed by the governor pursuant to section 26-34. All the members appointed by the governor, other than the ex officio members, shall serve for a term of four years, except that the governor may reduce the terms of those initially appointed so as to provide, as nearly as can be, for the expiration of an equal number of terms at intervals of one year, each term commencing on July 1 and expiring on June 30. All 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 duties and responsibilities.

The members of the board shall elect the chairperson of the board.

If for any reason whatsoever any of the ex officio positions is eliminated or changed in any way, the officer performing the basic functions of such ex officio position shall qualify to serve as the ex officio voting member on the board.”

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

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

(Approved June 13, 1988.)

ACT 288

S.B. NO. 2852

A Bill for an Act Relating to Boating.

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

SECTION 1. Section 266-20, Hawaii Revised Statutes is amended to read as follows:

“§266-20 Boating program[:]; payment of costs. The cost of administering a comprehensive statewide boating program, including, but not limited to, the cost of (1) operating, maintaining, and managing all boating facilities under the control of the department of transportation; (2) improving boating safety; (3) operating a vessel registration and boating casualty investigation and reporting system; (4) enforcing boat harbor, navigation, shore waters, and beach laws and [regulations;] rules; (5) assisting in abating air, water, and noise pollution related to small craft; and (6) other boating program activities[.], shall be paid from the boating special fund[; and (7) the]. The amortization (principal and interest) of the costs of capital improvements for boating facilities appropriated after July 1, 1975, including, but not limited to, berths, slips, ramps, [and] related accommodations, general navigation channels, breakwaters, aids to navigation, and other harbor structures, may be paid from the boating special fund or from general [revenue] revenues as the legislature may authorize in each situation. [Provided, however, that the amortization of the costs of constructing general navigation channels, breakwaters, aids to navigation and other harbor protective structures shall be from general revenues.] Revenues provided in this chapter for the boating special fund shall be at least sufficient to pay the special fund costs established herein.”

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

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

(Approved June 13, 1988.)

ACT 289

S.B. NO. 2868

A Bill for an Act Relating to Smoking.

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

SECTION 1. The purpose of this Act is to extend to those working on behalf of the State the protections against exposure to secondhand smoke which have already been provided to those working in government offices. The legislature has previously recognized the dangers of breathing secondhand smoke and continues to work toward improving the safety of the working environment. Smoking is known to be the single most important preventable cause of death in the nation and breathing secondhand smoke has been shown to be dangerous to those in confined places such as offices. This Act will specifically expand Chapter 328K, Smoking, Part II Smoking in the Workplace to apply the regulations of smoking in the office workplace to any private corporation, firm, or association receiving state funding pursuant to Chapter 42.

SECTION 2. Section 328K-12, Hawaii Revised Statutes, is amended by amending the definitions of “employer” and “office workplace” to read:

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" "Employer" means any state or county agency[.], or any private corporation, firm, or association which receives state funds under chapter 42.

"Office workplace" means any enclosed structure or portion thereof used by [governmental entities.] an employer."

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

SECTION 4. This Act shall take effect upon its approval; provided that all employers affected by the expanded definitions in Section 2 shall adopt smoking policies within three months of the effective date of this Act.

(Approved June 13, 1988.)

ACT 290

S.B. NO. 2871

A Bill for an Act Relating to Health Information.

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

SECTION 1. Chapter 325, Hawaii Revised Statutes, is amended by amending the title of part VI to read as follows:

[[]PART VI.] SEXUALLY TRANSMITTED DISEASES] HIV INFECTION, ARC, AND AIDS"

SECTION 2. Section 325-101, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) [All information and records containing any information which identifies any person who has or may have any condition related to a sexually transmitted disease or who has been tested for any condition related to a sexually transmitted disease which is required to be reported under this chapter or by administrative rule and] The records of any person which indicate that a person has a human immunodeficiency virus (HIV) infection, AIDS related complex (ARC), or acquired immune deficiency syndrome (AIDS), which are held or maintained by any state agency, health care provider or facility, physician, laboratory, clinic, blood bank, third party payor, or any other agency, individual, or [other] organization in the State shall be strictly confidential. For the purposes of this part, the term "records" shall be broadly construed to include all communication which identifies any individual who has HIV infection, ARC, or AIDS. Such information shall not be released or made public upon subpoena or any other method of discovery [except]. Notwithstanding any other provision to the contrary, release of the information protected under this part shall be permitted under the following circumstances:

- (1) Release is made of specific medical or epidemiological information to the department of health for statistical purposes in such a way that no person can be identified;
- (2) Release is made of specific medical or epidemiological information with the prior written consent to the specific information to be released of the person or persons identified therein;
- (3) Release is made of medical or epidemiological information to medical personnel in a medical emergency only to the extent necessary to protect the health, life, or well-being of the named party;

- (4) Release by the department of health is necessary to protect the health and well-being of the general public; provided that release is made in such a way that no person can be identified, except as specified in paragraph (5);
- (5) Release is made by the department of health of medical or epidemiological information to medical personnel, appropriate county and state agencies, blood banks, plasma centers, organ and tissue banks, schools, preschools, day care centers, or county or district courts to enforce the provisions of this part and to enforce rules adopted by the department of health concerning the control and treatment of [sexually communicable diseases;] HIV infection, ARC, and AIDS; provided that release of information under this paragraph shall only be made by confidential communication to a designated individual charged with compliance of the provisions of this part; [or]
- (6) Release is made for the purpose of enforcing the provisions of chapter 350[.];
- (7) Release is made to the patient's health care insurer to obtain reimbursement for services rendered to the patient; provided that release shall not be made if, after being informed that a claim will be made to an insurer, the patient is afforded the opportunity to make the reimbursement directly and actually makes the reimbursement;
- (8) Release is made by the patient's health care provider to another health care provider for the purpose of continued care of treatment of the patient; or
- (9) Release is made pursuant to court order, after an in camera review of the information, upon a showing of good cause by the party seeking the release of the records.

For the purpose of this part, the term "medical emergency" means any disease-related situation which threatens life or limb, and the term "medical personnel" means any health care provider, as provided in section 323D-2, in the State, who deals directly or indirectly with the identified patient or the patient's contacts, and includes hospital emergency room personnel, the staff of the communicable disease division of the department of health, and any other department personnel as designated by the director."

SECTION 3. Section 325-101, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) No person shall be compelled to consent to the release of information protected under this part or to disclose whether the person has been tested for the presence of HIV infection in order to obtain or maintain housing, employment, or education."

SECTION 4. Section 325-104, Hawaii Revised Statutes, is amended to read as follows:

"[[§325-104]] Responsibility to report. Notwithstanding any other law to the contrary, no provision in this part shall be construed so as to diminish, limit, or eliminate the responsibility of any person to report [sexually transmitted diseases] HIV infection, ARC, or AIDS to the proper authorities[.] pursuant to section 325-2."

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

SECTION 6. This Act shall take effect upon its approval.

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(Approved June 13, 1988.)

ACT 291

S.B. NO. 2923

A Bill for an Act Relating to Uniform Controlled Substance.

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

SECTION 1. Section 712-1242, Hawaii Revised Statutes, is amended to read as follows:

“§712-1242 Promoting a dangerous drug in the second degree. (1) A person commits the offense of promoting a dangerous drug in the second degree if he knowingly:

- (a) Possesses fifty or more capsules, tablets, ampules, dosage unit, or syrettes, containing one or more dangerous drugs; or
- (b) Possesses one or more preparations, compounds, mixtures, or substances of an aggregate weight of:
 - (i) One-eighth ounce or more, containing methamphetamine,¹ heroin, morphine, or cocaine or any of their respective salts[;], isomers, and salts of isomers; or
 - (ii) One-half ounce or more, containing any dangerous drug; or
- (c) Distributes any dangerous drug in any amount.

(2) Promoting a dangerous drug in the second degree is a class B felony.”

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

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

(Approved June 13, 1988.)

Note

1. Comma should be underscored.

ACT 292

S.B. NO. 2924

A Bill for an Act Relating to Negligent Injury and Negligent Homicide.

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

SECTION 1. Chapter 707, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designated and to read as follows:

“§707- Negligent homicide in the first degree. (1) A person is guilty of the offense of negligent homicide in the first degree if that person causes the death of another person by the operation of a vehicle in a negligent manner while under the influence of drugs or alcohol.

(2) Negligent homicide in the first degree is a class B felony.

§707- Negligent injury in the first degree. (1) A person is guilty of the offense of negligent injury in the first degree if that person causes serious bodily injury to another person by the operation of a motor vehicle in a negligent manner.

(2) Negligent injury in the first degree is a class C felony.

§707- Negligent injury in the second degree. (1) A person is guilty of the offense of negligent injury in the second degree if that person causes substantial bodily injury to another person by the operation of a motor vehicle in a negligent manner.

(2) Negligent injury in the second degree is a misdemeanor."

SECTION 2. Section 707-703, Hawaii Revised Statutes, is amended to read as follows:

"§707-703 Negligent homicide in the [first] second degree. (1) A person is guilty of the offense of negligent homicide in the [first] second degree if [he] that person causes the death of another person by the operation of a vehicle in a negligent manner.

(2) Negligent homicide in the [first] second degree is a class C felony."

SECTION 3. Section 707-704, Hawaii Revised Statutes, is amended to read as follows:

"§707-704 Negligent homicide in the [second] third degree. (1) A person is guilty of the offense of negligent homicide in the [second] third degree if [he] that person causes the death of another person by the operation of a vehicle in a manner which is simple negligence.

(2) "Simple negligence" as used in this section:

- (a) A person acts with simple negligence with respect to [his] the person's conduct when [he] the person should be aware of a risk that [he] the person engages in, [such] that conduct.
- (b) A person acts with simple negligence with respect to attendant circumstances when [he] the person should be aware of a risk that [such] those circumstances exist.
- (c) A person acts with simple negligence with respect to a result of [his] the person's conduct when [he] the person should be aware of a risk that [his] the person's conduct will cause [such a] that result.
- (d) A risk is within the meaning of this subsection if the person's failure to perceive it, considering the nature and purpose of [his] the person's conduct and the circumstances known to [him,] the person, involves a deviation from the standard of care that a law-abiding person would observe in the same situation.

(3) Negligent homicide in the [second] third degree is a misdemeanor."

SECTION 4. This Act shall not apply to rights and duties that matured, penalties that were incurred, or proceedings that were begun before its effective date.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 6. This Act shall take effect upon its approval.

(Approved June 13, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

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S.B. NO. 2931

A Bill for an Act Relating to Condominium Employees.

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

SECTION 1. Chapter 514A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§514A- Employees of condominiums; background check. The board of directors of an association of apartment owners or the manager of a condominium project, upon the written authorization of an applicant for employment as security guard or manager or for a position which would allow the employee access to the keys of or entry into the units in the condominium project or access to association funds, may conduct a background check on the applicant or direct another responsible party to conduct the check. Before initiating or requesting a check, the board of directors or the manager shall first certify that the signature on the authorization is authentic and that the person is an applicant for such employment. The background check, at a minimum, shall require the applicant to disclose whether the applicant has been convicted in any jurisdiction of a crime which would tend to indicate that the applicant may be unsuited for employment as a condominium employee with access to association funds or the keys of or entry into the units in the condominium project, and the judgment of conviction has not been vacated. For the purpose of this section, the criminal history disclosure made by the applicant may be verified by the board of directors, manager, or other responsible party, if so directed by the board or the manager, by means of information obtained through the Hawaii criminal justice data center. Failure of an association of apartment owners or the manager to conduct or verify or cause to have conducted or verified a background check shall not alone give rise to any private cause of action against an association or manager for acts and omissions of the employee hired.”

SECTION 2. New statutory material is underscored.¹

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

(Approved June 13, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 294

S.B. NO. 2979

A Bill for an Act Relating to Juveniles.

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

SECTION 1. The legislature finds that existing facilities and services for the detention and processing of youths in the family court system are inadequate. The family court detains youths who are status offenders or victims of abuse or neglect as well as juveniles who are law violators. Oftentimes, status offenders and the victims of abuse or neglect are sheltered at Hale Ho'omaluhia, the detention facility administered by the family court, when parents cannot be contacted or when parents refuse custody. At the detention facility, youths cannot be separated by age, type of offense, or severity of offense. The department of human services, which is

responsible for abused and neglected children, has contributed to this problem to the degree that abused and neglected children who present no significant antisocial behavior are often housed in Hale Ho'omalu because of the shortage of emergency shelter beds for these children. The legislature recognizes that the mixing of "hard core" law violators with other youths is unhealthy and that a separate facility for the status offenders, victims of abuse and neglect, and less hardened law violators should be established.

The purpose of this Act is to provide for separate shelters for status offenders and victims of abuse and neglect.

SECTION 2. Section 571-31, Hawaii Revised Statutes, is amended to read as follows:

"§571-31 Taking children into custody; release; notice. (a) A child may be taken into custody by any police officer without order of the judge when there are reasonable grounds to believe that a child comes within section 571-11(1) or (2), or by any police or probation officer when there are reasonable grounds to believe that the child has violated a court order of probation or protective supervision.

(b) When an officer or other person takes a child into custody the parents, guardian, or legal custodian shall be notified immediately. The child shall be (1) released to the care of the child's parent or other responsible adult; (2) referred or delivered to [an appropriate intake agency] the court or other designated agency with or without simultaneous release to parent or other responsible adult; or (3) taken directly to a detention facility, if the child's immediate welfare or the protection of the community requires it, or the child is subject to detention for violation of a court order of probation or protective supervision.

(c) If the person taking the child into custody believes it desirable, the child's parent, guardian, or legal custodian may be required to sign a written promise to [bring] take the child to the [intake agency] court or other designated agency at the time arranged, or to the court at the time directed by the court.

(d) If a parent or other responsible custodian fails to produce the child in court or at [the intake agency] another designated agency as required by an authorized notice, or when notified by the court, a summons or warrant may be issued for the apprehension of that person or the child or both. The court may assess the cost of the issuance and execution of the summons or warrant against the person."

SECTION 3. Section 571-31.2, Hawaii Revised Statutes, is amended to read as follows:

"§571-31.2 Juvenile intake [agency.] and diagnostic services. (a) [Not later than July 1, 1981, the court shall establish an intake agency, which, when a child is referred or delivered to the agency,] 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 [intake agency] 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) Release of a child to the care of the child's parent or other responsible adult;
- (B) 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) Initiation of the filing of a complaint or petition;
- (D) Detention of a child, utilizing the standard set out in section 571-31.1[;] or temporary shelter in a nonsecure shelter; and
- (E) 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's written promise to come or bring] custodian to take the child to the [intake agency, referral agency, or] court or other designated agency as in section 571-31(c). The failure of a parent, guardian, or other [responsible custodian's failure] legal custodian to produce the child in court[, at the intake agency, or at a referral] or at the other designated agency as required by an authorized notice may be pursued as provided in section 571-31(d)."

SECTION 4. Section 571-31.3, Hawaii Revised Statutes, is amended to read as follows:

"§571-31.3 Voluntary assistance. A child or the child's parent, guardian, or legal [custodain] custodian may voluntarily apply to [an intake agency] the court or other designated agency to obtain appropriate services, including family conciliation and counseling, regarding issues or problems involving the child which are not being successfully resolved within the family. Upon such application, the [intake agency] court or other designated agency shall render appropriate services to the child and the family or assist in securing such services from other appropriate agencies."

SECTION 5. 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 [an intake agency,] the court or other designated agency, informal adjustment 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) 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 non-binding 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; or
 - (10) Restitution providing for monetary payment by the parents of the child.
- (c) Informal adjustment projects, programs, and services may be provided through [the intake agency, other] public agencies[,] or private agencies.
- (d) 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."

SECTION 6. Section 571-31.5, Hawaii Revised Statutes, is amended to read as follows:

"§571-31.5 Informal adjustment, status offenders. (a) When a child reasonably believed to come within section 571-11(2) is referred to [an intake agency,] the court or other designated agency, informal adjustment 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. Informal adjustment under this section may include, among other suitable methods, programs, and procedures, listed in section 571-31.4(b), except section 571-31.4(b)(1), and provided that placement with shelter facilities under section 571-31.4(b)(9) shall be on a nonsecure basis unless the child is processed under subsection (b) of this section.

(b) 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."

SECTION 7. Section 571-33, Hawaii Revised Statutes, is amended to read as follows:

"§571-33 Detention and shelter facilities. Provisions shall be made for the temporary detention of children or minors in a detention home, to be conducted as an agency of the court; or the court may arrange for the care and custody of such children or minors temporarily in private homes subject to the supervision of the court, or may arrange with any institution or agency to receive for temporary care and custody children or minors within the jurisdiction of the court.

When a detention home is established as an agency of the court, the judge may appoint a director of detention services and other necessary employees for such home in the same manner as is provided by law for the appointment of other employees of the court.

A detention home established in any circuit may be used for the temporary detention of children or minors ordered to be detained by the court of another circuit. The use shall be subject to the approval of the judge of the court of the

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circuit in which the detention home is situated, upon such terms and conditions as may be established by the judge.

The family court shall also provide nonsecure shelter facilities separate from detention facilities. In referring minors to a nonsecure shelter, the court shall consider the minor's background, degree of involvement in illegal and anti-social activities, current behavioral patterns, and any other relevant criteria to determine placement."

SECTION 8. There is appropriated out of the general revenues of the State of Hawaii the sum of \$43,288, or so much thereof as may be necessary for fiscal year 1988-1989, for diagnostic services. The sum appropriated shall be expended by the judiciary for the purposes of this Act.

SECTION 9. 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 1988-1989, to enable the family court of the first circuit to establish nonsecure shelter facilities for youths under the court's jurisdiction who are status offenders or law violators who exhibit a low degree of involvement in illegal and antisocial activities, "street" sophistication, and maturity. The court may contract for such shelter services. The sum appropriated shall be expended by the judiciary to carry out the purposes of this Act.

SECTION 10. 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 1988-1989, to enable the department of human services to expand emergency shelter for abused or neglected children who are also status offenders or minor law violators. The department may contract for these shelter services. The sum appropriated shall be expended by the department of human services to carry out the purposes of this Act.

SECTION 11. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 12. This Act shall take effect on July 1, 1988.

(Approved June 13, 1988.)

ACT 295

S.B. NO. 3062

A Bill for an Act Relating to the General Excise Tax.

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

SECTION 1. Chapter 237, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§237- Additional exemptions. (a) In addition to the amounts exempt under section 237-24, this chapter shall not apply to amounts:

(1) Received by a stock exchange from:

(A) Transaction fees charged exchange members by the exchange for:

(i) The sale or purchase of stocks or option contracts bought or sold on the exchange by exchange members;

- (ii) Order book official entries made by exchange employees in an official order book for accounting and monitoring purposes; and
 - (iii) Data entries performed by exchange employees which entries match trades for buy and sell purposes;
 - (B) Membership dues from individuals or firms, including charges for firm symbols (member identification);
 - (C) Listing fees charged to companies that wish to be listed and have their securities traded on the exchange; and
 - (D) Participation in the communication network consortium owned and operated collectively by United States exchanges that provides securities information to subscribers; and
- (2) Amounts received by any stock exchange member by reason of executing a transaction relating to securities on the floor of a stock exchange; provided that this exclusion shall not apply to amounts received by any person for transactions preceding or succeeding a transaction on the floor of the stock exchange.

(b) As used in this section:

“Securities” means securities as defined in section 485-1.

“Stock exchange” means a stock exchange organized under the laws of, or authorized to do business in, this State.

“Stock exchange member” means an individual or firm that pays membership dues to the exchange in order to trade securities on the floor of the exchange.”

SECTION 2. Section 237-3, Hawaii Revised Statutes, is amended to read as follows:

“§237-3 “Gross income”, “gross proceeds of sale”, defined. (a) “Gross income” means the gross receipts, cash or accrued, of the taxpayer received as compensation for personal services and the gross receipts of the taxpayer derived from trade, business, commerce, or sales and the value proceeding or accruing from the sale of tangible personal property, or service, or both, and all receipts, actual or accrued as hereinafter provided, by reason of the investment of the capital of the business engaged in, including interest, discount, rentals, royalties, fees, or other emoluments however designated and without any deductions on account of the cost of property sold, the cost of materials used, labor cost, taxes, royalties, interest, or discount paid or any other expenses whatsoever. Every taxpayer shall be presumed to be dealing on a cash basis unless the taxpayer proves to the satisfaction of the department of taxation that the taxpayer is dealing on an accrual basis and the taxpayer’s books are so kept, or unless the taxpayer employs or is required to employ the accrual basis for the purposes of the tax imposed by chapter 235 for any taxable year in which event the taxpayer shall report the taxpayer’s gross income for the purposes of this chapter on the accrual basis for the same period.

“Gross proceeds of sale” means the value actually proceeding from the sale of tangible personal property without any deduction on account of the cost of property sold or expenses of any kind.

(b) The words “gross income” and “gross proceeds of sales” shall not be construed to include: gross receipts from the sale of [bonds] securities as defined in section 485-1 or other evidence of indebtedness [or stocks] or, except as otherwise provided, from the sale of land in fee simple, improved or unimproved, dividends as defined by chapter 235; cash discounts allowed and taken on sales; the proceeds of sale of goods, wares, or merchandise returned by customers when the sale price

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is refunded either in cash or by credit; or the sale price of any article accepted as part payment on any new article sold, if the full sale price of the new article is included in the "gross income" or "gross proceeds of sales"; gross receipts from the sale or transfer of materials or supplies, interest on loans, or the provision of engineering, construction, maintenance, or managerial services by one "member" of an "affiliated public service company group" to another "member" of the same group as such terms are defined in section 239-2(6). Accounts found to be worthless and actually charged off for income tax purposes may, at corresponding periods, be deducted from gross proceeds of sale, or gross income, within this chapter, so far as they reflect taxable sales made, or gross income earned, after July 1, 1935, but shall be added to gross proceeds of sale or gross income when and if afterwards collected."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon approval, and Section 1 shall be repealed on June 30, 1989.

(Approved June 13, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

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S.B. NO. 3088

A Bill for an Act Relating to Human Services.

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

SECTION 1. Section 346-14, Hawaii Revised Statutes, is amended to read as follows:

"§346-14 Duties generally. Except as otherwise provided by law, the department of human services shall:

- (1) Administer, establish programs and standards, and [promulgate] adopt rules as deemed necessary for all public assistance programs;
- (2) Establish, extend, and strengthen services for the protection and care of neglected children and children in danger of becoming delinquent;
- (3) Assist in preventing family breakdown;
- (4) Place, or cooperate in placing neglected children in suitable private homes or institutions, and place, or cooperate in placing, children in suitable adoptive homes;
- (5) Have authority to establish, maintain, and operate receiving homes for the temporary care and custody of neglected children until suitable plans are made for their care; and accept from the police and other agencies, for temporary care and custody, any neglected child until satisfactory plans are made for the child;
- (6) Administer the medical assistance programs for eligible public welfare and other medically needy individuals by establishing standards, eligibility, and health care participation rules, payment methodologies, reimbursement allowances, systems to monitor recipient and provider compliance, and assuring compliance with federal requirements in order to maximize federal financial participation;

- (7) Cooperate with the federal government in carrying out the purposes of the Social Security Act, and in other matters of mutual concern pertaining to public welfare, public assistance, and child welfare services, including the making of such reports, the adoption of such methods of administration, and the making of such rules as are found by the federal government, or any properly constituted authority thereunder, to be necessary or desirable for the efficient operation of the plans for such public welfare, assistance, and child welfare services, or as may be necessary or desirable for the receipt of financial assistance from the federal government;
- (8) Carry on research and compile statistics relative to public and private welfare activities throughout the State, including those dealing with dependence, defectiveness, delinquency, and related problems;
- (9) Develop plans in cooperation with other public and private agencies for the prevention and treatment of conditions giving rise to public welfare problems;
- (10) Make such rules governing the procedure in hearings, investigations, recording, registration, determination of allowances, and accounting, and conduct such other activities as may be necessary or proper to carry out this chapter, which rules, when approved by the governor, shall have the force and effect of law;
- (11) Supervise or administer any other activities authorized or required by this chapter, including the development of the staff of the department through in-service training and educational leave to attend schools and other appropriate measures, and any other activities placed under the jurisdiction of the department by any other law;
- (12) Make, prescribe, and enforce such policies and rules governing the activities provided for in section 346-31 as it deems advisable, including the allocation of moneys available for assistance to persons assigned to work projects among the several counties or to particular projects where such apportionment has not been made pursuant to other provisions of law, if any, governing expenditures of the funds, which rules, when approved by the governor, shall have the force and effect of law;
- (13) Determine the appropriate level for the Hawaii security net by developing a tracking and monitoring system to determine what segments of the population are not able to afford the basic necessities of life, and advise the legislature annually regarding the resources required to maintain the security net at the appropriate level[.]; and
- (14) Subject to the appropriation of state funds and availability of federal matching assistance, expand optional health care to low-income persons as follows: pregnant women, children, elderly persons, aliens, the homeless, and other handicapped and medically needy persons."

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$3,564,312, or so much thereof as may be necessary for fiscal year 1988-1989, to expand optional health care to low-income persons as follows: pregnant women, children, elderly persons, aliens, the homeless, and other handicapped and medically needy persons. The sum appropriated shall be expended by the department of human services for the purposes of this Act.

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

SECTION 4. This Act shall take effect on July 1, 1988.

ACT 297

(Approved June 13, 1988.)

ACT 297

S.B. NO. 3095

A Bill for an Act Relating to Special Purpose Revenue Bonds for Manufacturing Agricultural Products.

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. The legislature finds that Hawaii has traditionally relied upon the visitor industry and the sugar and pineapple industries to provide employment for a large segment of the population and generate tax revenues for government programs and services. However, it has been a policy of the State to reduce reliance on these industries and encourage the development of new diversified enterprises. If Hawaii is to assume a role of leadership in the Pacific, it must demonstrate that it is capable of innovation and effective implementation of new ideas and business initiatives harmonious with contemporary technological and agricultural advancements. The legislature therefore finds that the construction and equipping of a plant for manufacturing products from fruits and nuts is consistent with legislative and state objectives.

SECTION 3. Pursuant to part III of 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 \$8,000,000 in one or more series for the purpose of assisting Hawaiian Sun Products, Inc., a Hawaii corporation, or its subsidiary, for constructing and equipping a manufacturing plant in the Hamakua district. The legislature hereby finds and determines that the construction and equipping of a plant for manufacturing products from fruits and nuts constitutes a "project" as defined in part III of chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to a manufacturing enterprise.

SECTION 4. The special purpose revenue bonds issued under this Act shall be issued pursuant to part III of chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist manufacturing enterprises.

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

(Approved June 13, 1988.)

ACT 298

S.B. NO. 3146

A Bill for an Act Relating to Property.

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
RIGHT OF FIRST REFUSAL FOR
CONDOMINIUMS AND COOPERATIVE HOUSING
CORPORATIONS**

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

"Condominium" means the ownership of single units, with common elements, located on property within the horizontal property regime.

"Condominium unit lessee" means an individual or individuals owning or leasing a condominium unit situated on leasehold land.

"Condominium project" means a real estate condominium project; a plan or project whereby a condominium of two or more units located within the horizontal property regime have been sold or leased or are offered or proposed to be offered for sale or lease.

"Cooperative housing corporation" means a corporation having one and only one class of stock outstanding; each of the stockholders of which is entitled solely by reason of the shareholder's ownership of stock in the corporation, to occupy for dwelling purposes the dwelling unit in a building, owned or leased by the corporation, and situated on land leased by the corporation; and 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.

"Cooperative project" means a real estate cooperative housing corporation project; a plan or project whereby two or more apartments located in a building owned by a cooperative housing corporation have been leased or are offered or proposed to be offered to be leased.

"Cooperative unit lessee" means a shareholder of a cooperative housing corporation having a cooperative project located on leasehold land.

"Lessor" means the owner of the fee simple title to land which is leased to condominium lessees or a cooperative housing corporation, including a life tenant with a remainder over, vested or contingent, and a holder of a defeasible estate, and the holder's heirs, successors, legal representatives, and assigns.

§ -2 Right of first refusal. When the leased fee interest in land under a condominium project or cooperative project or any part thereof is to be sold to any party other than the association of owners or the cooperative housing corporation, the seller shall first provide the board of directors of the association of owners or the cooperative housing corporation with written notice delivered or mailed by registered or certified mail, return receipt requested, postage prepaid, to any two of the president, vice-president, or managing agent (if any), of its intent to sell that interest, together with a complete and correct copy of the purchaser's written offer, which offer shall contain the full and complete terms thereof. The association of apartment owners or cooperative housing corporation shall have a right of first refusal to purchase that leased fee interest for the same price as is contained in the written purchase offer.

§ -3 Improvements. The right of first refusal to purchase the leased fee interest in land created by this chapter shall be deemed to include the right to purchase the interest of the seller in any and all improvements on such land, other than the leasehold interest in any unit as to which the seller is the holder of the leasehold interest.

§ -4 Compliance with procedures not required when. Nothing in this chapter shall prohibit any lessor and association of condominium owners or co-

operative housing corporation from agreeing to the sale and purchase of the leased fee interest or any part thereof.

§ -5 Offer to other prospective purchasers; time limit. No lessor shall offer to sell the leased fee interest in any land under a condominium project or cooperative project or any part thereof to any party other than the association of owners or cooperative housing corporation for that project until a right of first refusal for the purchase of that interest has been offered as required by this chapter and has been rejected in writing by the board of directors; provided that an offer made pursuant to sections -2 and -3 shall be deemed to be rejected if not accepted in writing by the board of directors of the condominium project or the cooperative housing corporation within one hundred twenty days of its receipt of the written notice from the seller, as evidenced by the return receipts, or if the sale, through no fault of the seller, has not closed upon the purchase of one hundred per cent of the interest being sold within one hundred eighty days of receipt by the board of directors of such written notice, as evidenced by the return receipts. In the event that closing is delayed due to any fault of the seller, the deadline for closing shall be extended for a period of time equal to the delay caused by seller.

§ -6 Powers of association of apartment owners and cooperative housing corporation. (a) The association of apartment owners or cooperative housing corporation may purchase the leased fee interest in the land; provided that at least seventy-five per cent of the condominium unit lessees or cooperative unit lessees approve of the purchase. If the seller is also a condominium unit lessee or cooperative unit lessee, the seller's interest shall be disregarded in the computation to achieve the seventy-five per cent requirement. As used herein, seventy-five per cent of the condominium unit lessees means the lessees of units to which seventy-five per cent of the common interests are appurtenant and seventy-five per cent of the cooperative unit lessees means shareholders having at least seventy-five per cent of the shares in the cooperative housing corporation.

If the association of apartment owners or cooperative housing corporation accepts the seller's offer to purchase the leased fee interest in the land, the following powers, in addition to any other powers, shall be conferred upon the association of owners or cooperative housing corporation:

- (1) To purchase or otherwise acquire, own, improve, use, and otherwise deal in and with the leased fee interest to the land or any or all undivided interests therein;
 - (2) To incur liabilities, borrow money, and secure any of its obligations by mortgage or pledge of all or any portion of its property, assessments, and funds;
 - (3) To assess, in a fair and equitable manner, the condominium unit lessees or cooperative unit lessees for the expenses incurred in acquiring the leased fee interest to the land, or to service any debt associated therewith; and
 - (4) To sell the leased fee interest appurtenant to a condominium unit to any condominium unit lessee or subsequent purchaser of such unit.
- (b) No conveyance of the leased fee interest to or by an association of owners or cooperative housing corporation, and no borrowing, mortgage, or pledge by an association of owners or cooperative housing corporation shall be invalid because it was without capacity or power to do such an act or to make or receive such conveyance, transfer, or loan.
- (c) No condominium lessee shall be compelled to participate in the purchase of the leased fee interest of the property, but may instead pay lease rent to the association of owners.

§ -7 Violations; voidable sale. Any sale made that violates this chapter shall be voidable at the option of the association of owners or the cooperative housing corporation. If any sale is so voided, the association of owners or cooperative housing corporation shall then have the right to buy the interest which had been conveyed by virtue of such sale for the same price as pertained to the sale so voided, subject to the time restrictions contained in section -5.

§ -8 Exception. This chapter shall not apply if the land under the condominium project or cooperative housing corporation subject to a leased fee interest is part of a larger tract of land and the lessor will not agree to sell the leased fee interest in the land in parts."

SECTION 2. This Act shall take effect upon its approval but shall not affect any sale to an association of owners or cooperative housing corporation as to which a binding contract existed prior to such effective date.

(Approved June 13, 1988.)

ACT 299

S.B. NO. 3151

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds to Finance a High Technology Development Project in the City and County of Honolulu.

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

SECTION 1. The legislature finds that chapter 39A, part V, Hawaii Revised Statutes, permits the State to assist industrial enterprises financially through the issuance of special purpose revenue bonds. The legislature finds and declares that the issuance of special purpose bonds under this Act is in the public interest and for the public health, safety, and general welfare of the State.

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, in one or more series, special purpose revenue bonds in a total amount not to exceed \$10,000,000 for the purpose of assisting Magnetics Research International Corporation of Hawaii, a Hawaii corporation, in the generation of new capital for the establishment of a research and development facility.

The facility will be utilized to complete the commercial development of the company's base technology which is the patented VRM brushless DC motor and sub-assembly products, and to manufacture prototype demonstration units for the promotion of the completed VRM technology in commercial and industrial settings. The legislature finds and determines that the activity and facilities of Magnetics Research International Corporation of Hawaii constitutes a project as defined in chapter 39A, part V, Hawaii Revised Statutes, and the financing thereof is assistance to an industrial enterprise.

SECTION 3. The special purpose revenue bonds issued under this Act shall be issued pursuant to chapter 39A, part V, Hawaii Revised Statutes, relating to the issuance of special purpose revenue bonds to assist industrial enterprises.

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

(Approved June 13, 1988.)

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S.B. NO. 3172

A Bill for an Act Relating to Cable Television and Telecommunications Fraud.

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

SECTION 1. Section 708-8200, Hawaii Revised Statutes, is amended to read as follows:

"[§708-8200] Cable television service fraud in the first degree. (1)

A person commits cable television service fraud in the first degree if the person knowingly:

- (a) Distributes written instructions or plans to make or assemble a cable television service device and knows [or has reason to believe] that the written plans or instructions are intended to be used to make or assemble a device to obtain cable television service without payment of applicable charges; or
 - (b) Distributes a cable television device¹ and knows [or has reason to believe] that the device is intended to be used to obtain cable television service without payment of applicable charges.
- (2) Cable television service fraud in the first degree is a class C felony."

SECTION 2. Section 708-8202, Hawaii Revised Statutes, is amended to read as follows:

"[§708-8202] Telecommunication service fraud in the first degree.

(1) A person commits the offense of telecommunication service fraud in the first degree if the person knowingly:

- (a) Distributes written instructions or plans to make or assemble a telecommunication service device and knows [or has reason to believe] that the written plans or instructions are intended to be used to make or assemble a device to obtain telecommunication service without payment of applicable charges; or
 - (b) Distributes a telecommunication service device and knows [or has reason to believe] that the device is intended to be used to obtain telecommunication service without payment of applicable charges.
- (2) Telecommunication service fraud in the first degree is a class C felony."

SECTION 3. Statutory material to be repealed is bracketed.

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

(Approved June 13, 1988.)

Note

1. Prior to amendment, "service" appeared here.

ACT 301

S.B. NO. 3182

A Bill for an Act Relating to the Development and Use of Geothermal Energy.

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 GEOTHERMAL AND CABLE SYSTEM DEVELOPMENT PERMITTING ACT OF 1988”

§ -1 Short title. This chapter shall be known and may be cited as the “Geothermal and Cable System Development Permitting Act of 1988.”

§ -2 Findings and declaration of purpose. The legislature hereby finds and declares that:

- (1) The development of Hawaii's geothermal resources, which are located principally on the island of Hawaii and possibly on the island of Maui, represents a substantial and long-term source of indigenous renewable alternate energy that could be used to generate electric energy to meet the State's electric energy needs and concurrently help to reduce the State's need for imported fossil fuels;
- (2) The State has deemed it appropriate that the private sector should develop these geothermal resources, and, to that end, has sought to encourage private sector exploration and development of geothermal resources;
- (3) The private sector companies seeking to develop geothermal resources are, however, unable or unwilling to expend the substantial amounts of funds needed to develop these resources to their full extent without an assured and sufficiently large market for the electric energy to be generated therefrom, and the present and projected electric energy demand on the island of Hawaii does not provide an assured and sufficiently large market;
- (4) The greatest present and projected demand for geothermally generated electric energy is located on the island of Oahu;
- (5) The State, with the support and assistance of the federal and county of Hawaii governments, has been exploring for several years the technical, engineering, economic, and financial feasibility of an interisland deep water electrical transmission cable system that would be capable of transmitting geothermally generated electric energy from the island of Hawaii to the islands of Maui and Oahu, and believes that a cable system may be feasible and desirable;
- (6) The development of such a cable system will not be undertaken without the firm assurance that a sufficient amount of geothermally generated electric energy will be continuously available to be transmitted through a cable system once it becomes operational;
- (7) The fundamental interrelationship between the development of geothermal resources and a cable system and the magnitude of the cost to undertake each of these developments clearly indicate that neither will be undertaken without the firm assurance that the other also will be undertaken in a synchronized and coordinated manner to enable both developments in substance to be completed concurrently, thereby en-

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- suring that revenues will be available to begin amortizing the costs of each of these developments;
- (8) A major and fundamental difficulty in the development of both geothermal resources and a cable system is the diverse array of federal, state, and county land use, planning, environmental, and other related laws and regulations that currently control the undertaking of all commercial projects in the State;
 - (9) These controls attempt to ensure that commercial development projects in general are undertaken in a manner consistent with land use, planning, environmental, and other public policies, except that some of these specific laws, regulations, and controls may be repetitive, duplicative, and uncoordinated;
 - (10) To a limited extent, the State and counties have sought to ameliorate this difficulty through the enactment or adoption of measures to improve the coordination and efficiency of land use and planning controls and specifically to facilitate the development of geothermal resources;
 - (11) Notwithstanding these efforts, the complexities, the magnitude in scope and cost, the fundamental interrelationship between the development of geothermal resources and a cable system, the inherent requirement for the coordinated development of the geothermal resources and a cable system, the substantial length of time required to undertake and complete both developments, and the desirability of private funding for both developments require that affected state and county agencies be directed to pursue and develop to the maximum extent under existing law the coordination and consolidation of regulations and controls pertinent to the development of geothermal resources and a cable system;
 - (12) The development of geothermal resources and a cable system, both individually and collectively, would represent the largest and most complex development ever undertaken in the State;
 - (13) Because of the complexities of both projects, there is a need to develop a consolidated permit application and review process to provide for and facilitate the firm assurances that companies will require before committing the substantial amounts of funds, time, and effort necessary to undertake these developments, while at the same time ensuring the fulfillment of fundamental state and county land use and planning policies;
 - (14) The development of geothermal resources and a cable system are in furtherance of the State's policies, as expressed in the state plan and elsewhere, to develop the State's indigenous renewable alternate energy resources and to decrease the State's dependency on imported fossil fuels; and
 - (15) A consolidated permit application and review process for the development of the State's geothermal resources and the cable system should be established by an act of the legislature.

§ -3 Definitions. As used in this chapter unless the context clearly requires otherwise:

“Agency” means any department, office, board, or commission of the State or a county government which is a part of the executive branch of that government, but does not include any public corporation or authority that may be established by the legislature for the purposes of the project.

“Applicant” means any person who, pursuant to statute, ordinance, rule, or regulation, requests approval or a permit of the proposed project.

“Approval” means a discretionary consent required from an agency prior to the actual implementation of the project.

“Department” means the department of land and natural resources or any successor agency.

“Discretionary consent” means a consent, sanction, or recommendation from an agency for which judgment and free will may be exercised by the issuing agency, as distinguished from a ministerial consent.

“Environmental impact statement” means, as applicable, an informational document prepared in compliance with chapter 343 or with the National Environmental Policy Act of 1969 (Public Law 91-190).

“Interagency group” means the body established pursuant to section -6.

“Permit” means any license, permit, certificate, certification, approval, compliance schedule, or other similar document or decision pertaining to any regulatory or management program which is related to the protection, conservation, use of, or interference with the natural resources of land, air, or water in the State and which is required prior to or in connection with the undertaking of the project.

“Person” includes any individual, partnership, firm, association, trust, estate, corporation, joint venture, consortium, any public corporation or authority that may be established by the legislature for the purposes of the project, or other legal entity other than an agency.

“Project” means the commercial development, construction, installation, financing, operation, maintenance, repair, and replacement, including without limitation all applicable exploratory, testing, and predevelopment activities related to the foregoing, of:

- (1) A geothermal power plant or plants, including all associated equipment, facilities, wells, and transmission lines, on the island of Hawaii for the purpose of generating electric energy for transmission primarily to the island of Oahu through the cable system; and
- (2) An interisland deep water electrical transmission cable system, including all land-based transmission lines and other ancillary facilities, to transmit geothermally generated electric energy from the island of Hawaii to the island of Oahu, regardless of whether the cable system is used to deliver electric energy to any intervening point.

§ -4 Consolidated permit application and review process. (a) The department is designated as the lead agency for the purposes of this chapter and, in addition to its existing functions, shall establish and administer the consolidated permit application and review process provided for in this chapter, which shall incorporate the permitting functions of those agencies involved in the development of the project which are transferred by section -10 to the department to effectuate the purposes of this chapter.

(b) The consolidated permit application and review process shall incorporate:

- (1) A list of all permits required for the project;
- (2) The role and functions of the department as the lead agency and the interagency group;
- (3) All permit review and approval deadlines;
- (4) A schedule for meetings and actions of the interagency group;
- (5) A mechanism to resolve any conflicts that may arise between or among the department and any other agencies, including any federal agencies, as a result of conflicting permit, approval, or other requirements, procedures, or agency perspectives;
- (6) Any other administrative procedures related to the foregoing; and

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- (7) A consolidated permit application form to be used for the project for all permitting purposes.

(c) The department shall perform all of the permitting functions for which it is currently responsible and which are transferred to it by section -10 for the purposes of the project, and shall coordinate and consolidate all required permit reviews by other agencies, and to the fullest extent possible by all federal agencies, having jurisdiction over any aspect of the project.

§ -5 Consolidated permit application and review procedure. (a) The department shall serve as the lead agency for the consolidated permit application and review process established pursuant to section -4(b) and as set forth in this section for the project. All agencies whose permitting functions are not transferred by section -10 to the department for the purposes of the project are required to participate in the consolidated permit application and review process.

(b) To the greatest extent possible, the department and each agency whose permitting functions are not transferred by section -10 to the department for the purposes of the project shall complete all of their respective permitting functions for the purposes of the project, in accordance with the timetable for regulatory review set forth in the joint agreement described in subsection (c)(3) and within the time limits contained in the applicable permit statutes, ordinances, regulations, or rules; except that the department or any agency shall have good cause to extend, if and as permitted, the applicable time limit if the permit-issuing agency must rely on another agency, including any federal agency, for all or part of the permit processing and the delay is caused by the other agency.

(c) The procedure shall be as follows:

(1) The applicant shall submit the consolidated permit application using the consolidated permit application form, which shall include whatever data about the proposed project that the department deems necessary to fulfill the purposes of this chapter and to determine which other agencies may have jurisdiction over any aspect of the proposed project.

(2) Upon receipt of the consolidated permit application, the department shall notify all agencies whose permitting functions are not transferred by section -10 to the department for the purposes of the project, as well as all federal agencies, that the department determines may have jurisdiction over any aspect of the proposed project as set forth in the application, and shall invite the federal agencies so notified to participate in the consolidated permit application process. The agencies, and those federal agencies that accept the invitation, thereafter shall participate in the consolidated permit application and review process.

(3) The representatives of the department and the state, county, and federal agencies and the applicant shall develop and sign a joint agreement among themselves which shall:

- (A) Identify the members of the consolidated permit application and review team;
- (B) Identify all permits required for the project;
- (C) Specify the regulatory and review responsibilities of the department and each state, county, and federal agency and set forth the responsibilities of the applicant;
- (D) Establish a timetable for regulatory review, the conduct of necessary hearings, the preparation of an environmental impact statement if necessary, and other actions required to minimize duplication and to coordinate and consolidate the activities of the applicant, the department, and the state, county, and federal agencies; and

- (E) Provide that a hearing required for a permit shall be held on the island where the proposed activity shall occur.
 - (4) A consolidated permit application and review team shall be established and shall consist of the members of the interagency group established pursuant to section -6(a). The applicant shall designate its representative to be available to the review team, as it may require, for purposes of processing the applicant's consolidated permit application.
 - (5) The department and each agency whose permitting functions are not transferred by section -10 to the department for the purposes of the project, and each federal agency shall issue its own permit or approval based upon its own jurisdiction. The consolidated permit application and review process shall not affect or invalidate the jurisdiction or authority of any agency under existing law, except to the extent that the permitting functions of any agency are transferred by section -10 to the department for the purposes of the project.
 - (6) The applicant shall apply directly to each federal agency that does not participate in the consolidated permit application and review process.
 - (7) The department shall review for completeness and thereafter shall process the consolidated permit application submitted by an applicant for the project, and shall monitor the processing of permit application by those agencies whose permitting functions are not transferred by section -10 to the department for the purposes of the project. The department shall coordinate, and seek to consolidate where possible, the permitting functions and shall monitor and assist in the permitting functions conducted by all of these agencies, and to the fullest extent possible the federal agencies, in accordance with the consolidated permit application and review process.
 - (8) Once the processing of the consolidated permit application has been completed and the permits requested have been issued to the applicant, the department shall monitor the applicant's work undertaken pursuant to the permits to ensure the applicant's compliance with the terms and conditions of the permits.
- (d) Where the contested case provisions under chapter 91 apply to any one or more of the permits to be issued by the agency for the purposes of the project, the agency may, if there is a contested case involving any of the permits, be required to conduct only one contested case hearing on the permit or permits within its jurisdiction. Any appeal from a decision made by the agency pursuant to a public hearing or hearings required in connection with a permit shall be made directly on the record to the supreme court for final decision subject to chapter 602.

§ -6 Interagency group. (a) The department shall establish an interagency group comprised of those agencies whose permitting functions are not transferred by section -10 to the department for the purposes of the project and which have jurisdiction over any aspect of the project. Each of these agencies shall designate an appropriate representative to serve on the interagency group as part of the representative's official responsibilities. The interagency group shall perform liaison and assisting functions as required by this chapter and the department. The department shall invite and encourage the appropriate federal agencies having jurisdiction over any aspect of the project to participate in the interagency group.

(b) The department and agencies shall cooperate with the federal agencies to the fullest extent possible to minimize duplication between and, where possible, promote consolidation of federal and state requirements. To the fullest extent possible, this cooperation shall include, among other things, joint environmental impact statements with concurrent public review and processing at both levels of govern-

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ment. Where federal law has requirements that are in addition to but not in conflict with state law requirements, the department and the agencies shall cooperate to the fullest extent possible in fulfilling their requirements so that all documents shall comply with all applicable laws.

(c) If the legislature establishes any public corporation or authority for the purposes of the project, then upon its establishment, the public corporation or authority shall be a member of the interagency group.

§ -7 Streamlining activities. In administering the consolidated permit application and review process, the department shall:

- (1) Monitor all permit applications submitted under this chapter and the processing thereof on an ongoing basis to determine the source of any inefficiencies, delays, and duplications encountered and the status of all permits in process;
- (2) Adopt and implement needed streamlining measures identified by the interagency group, in consultation with those agencies whose permitting functions are not transferred by section -10 to the department for the purposes of the project and with members of the public;
- (3) Design, in addition to the consolidated permit application form, other applications, checklists, and forms essential to the implementation of the consolidated permit application and review process;
- (4) Recommend to the legislature, as appropriate, suggested changes to existing laws to eliminate any duplicative or redundant permit requirements;
- (5) Coordinate with agencies to ensure that all standards used in any agency decision-making for any required permits are clear, explicit, and precise; and
- (6) Incorporate, where possible, rebuttable presumptions based upon requirements met for permits issued previously under the consolidated permit application and review process.

§ -8 Information services. The department shall:

- (1) Operate a permit information and coordination center during normal working hours, which will provide guidance to potential applicants for the project with regard to the permits and procedures that may apply to the project; and
- (2) Maintain and update a repository of the laws, rules, procedures, permit requirements, and criteria of agencies whose permitting functions are not transferred by section -10 to the department for the purposes of the project and which have control or regulatory power over any aspect of the project and of federal agencies having jurisdiction over any aspect of the project.

§ -9 Construction of the Act; rules. This chapter shall be construed liberally to effectuate its purposes, and the department shall have all powers which may be necessary to carry out the purposes of this chapter, including the authority to make, amend, and repeal rules to implement this chapter; provided that all procedures for public information and review under chapter 91 shall be preserved; and provided further that the consolidated permit application and review process shall not affect or invalidate the jurisdiction or authority of any agency under existing law. The adoption, amendment, and repeal of all rules shall be subject to chapter 91.

§ -10 Transfer of functions. (a) Those functions identified in paragraphs (1) and (2) insofar as they relate to the permit application, review, processing,

issuance, and monitoring of laws, and rules and to the enforcement of terms, conditions, and stipulations of permits and other authorizations issued by agencies with respect to the development, construction, installation, operation, maintenance, repair, and replacement of the project, or any portion or portions thereof, are transferred to the department. With respect to each of the statutory authorities cited in paragraphs (1) and (2), the transferred functions include all enforcement functions of the agencies or their officials under the statute cited as may be related to the enforcement of the terms, conditions, and stipulations of permits, including but not limited to the specific sections of the statute cited. "Enforcement", for purposes of this transfer of functions, includes monitoring and any other compliance or oversight activities reasonably related to the enforcement process. These transferred functions include:

- (1) Such functions of the land use commission related to: district boundary amendments as set forth in section 205-3.1 et seq.; and changes in zoning as set forth in section 205-5; and
 - (2) The permit approval and enforcement functions of the director of transportation or other appropriate official or entity in the department of transportation related to permits or approvals issued for the use of or commercial activities in or affecting the ocean waters and shores of the state under chapter 266.
- (b) Nothing in this section shall be construed to relieve an applicant from the laws, ordinances, and rules of any agency whose functions are not transferred by this section to the department for the purposes of the project.
- (c) This section shall not apply to any permit issued by the public utilities commission under chapter 269.
- (d) Notwithstanding any other provision of this chapter, this section shall take effect on a date that is one year after the effective date of this chapter.

§ -11 Annual report. The department shall submit an annual report to the governor and the legislature on its work during the preceding year, the development status of the project, any problems encountered, and any legislative actions that may be needed further to improve the consolidated permit application and review process and implement the intent of this chapter.

§ -12 Severability. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared severable.

§ -13 Exemptions from certain state laws. In order to promote the purposes of this chapter, all persons hired by the department to effectuate this chapter are excepted from chapters 76, 77, and 89.

§ -14 Development of geothermal resources on Maui. To the extent an applicant's proposed project includes the development of geothermal resources on the island of Maui and the delivery of electric energy generated from these resources to the island of Oahu through the cable system, this chapter shall apply to that proposed project."

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$275,000, or so much thereof as may be necessary for fiscal year 1988-1989, to carry out the purposes of this chapter. The sum appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

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SECTION 3. This chapter shall take effect on July 1, 1988, but shall not apply to any applications filed prior to the effective date.

(Approved June 13, 1988.)

ACT 302

S.B. NO. 3190

A Bill for an Act Relating to Housing.

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

SECTION 1. Subpart IIIC of Chapter 201E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§201E- Corporation’s right to repurchase or rent unit; authority to seek recovery. (a) Notwithstanding any provisions to the contrary, during the period in which the restrictions in sections 221 and 222 are in effect, the following provisions shall apply when dwelling units developed, constructed, financed, purchased, or sold pursuant to Act 105, Session Laws of Hawaii 1970, as amended, are found to have a substantial construction defect:

- (1) The corporation shall have the right, but not the obligation, to repurchase a dwelling unit which has a construction defect, regardless or whether or not the owner wishes to sell, provided that such repurchases shall be in accordance with the following provisions:
 - (A) The corporation may repurchase a dwelling unit if:
 - (i) The dwelling unit is deemed unsafe by the county building department; or
 - (ii) The defects are irreparable; or
 - (iii) In the opinion of the corporation, the defect is of such magnitude that it will take longer than a year to repair.
 - (B) The corporation’s purchase price shall be based on the formula set forth in paragraph 221 (a)(1);
 - (C) After repairs to the unit are completed, the former owner shall have the first right of refusal to repurchase the unit;
 - (D) The corporation shall give preference in all other projects of the corporation to all owners whose units are repurchased by the corporation under this subsection, and the corporation may waive certain eligibility requirements for these owners; and
 - (E) If the corporation exercises its right to purchase a defective unit against an owner’s wishes pursuant to this paragraph, the corporation shall provide relocation assistance to that owner as provided in chapter 111;
- (2) If the corporation does not opt to purchase a dwelling unit which has a construction defect, the corporation shall also have the right, but not the obligation, to enter into a contract to repair a dwelling unit which has a construction defect. During the period that the unit is being repaired, the corporation shall rent that unit from the owner for an amount not to exceed the owner’s present mortgage payments; and
- (3) If the corporation does not execute either a contract to repurchase the dwelling unit or an agreement to repair and rent the unit within ninety days after written notice is given to the corporation of a construction defect, the owner may pursue any other available legal remedies.

For the purposes of this subsection, “substantial construction defect” includes but is not necessarily limited to: structural defects such as shifting foundations

and bearing walls; structural deficiencies due to the use of defective or undersized materials; and defects affecting the health and safety of occupants.

(b) If moneys are expended by the corporation pursuant to paragraphs (a)(1) and (a)(2), the corporation shall have the authority to take necessary legal action against the developer, co-developer, general contractor, and their subcontractors, consultants, and other parties notwithstanding any provisions to the contrary in chapter 657.

(c) If dwelling units developed, constructed, financed, purchased, or sold pursuant to Act 105, Session Laws of Hawaii 1970, as amended, are found to have a substantial construction defect, the corporation shall have the right, but not the obligation, to file a legal action on behalf of the owner or lessee of the dwelling unit for the recovery of damages or for injunctive relief against the developer, co-developer, general contractor, and their subcontractors, consultants, and other parties notwithstanding any provisions to the contrary in chapter 657.

(d) Nothing in this chapter shall be construed so as to diminish the rights or remedies of the corporation otherwise provided under common law, by statute or by contract.

(e) The corporation shall adopt rules pursuant to chapter 91 necessary for the purposes of this section.

(f) If any subsection, sentence, clause or phrase of this section, or its application to any person or transaction or other circumstances, is for any reason held to be unconstitutional or invalid, the remaining subsections, sentences, clauses, and phrases of this section, or the application of this section to other persons or transactions or circumstances, shall not be affected. The legislature hereby declares that it would have passed this section and each subsection, clause, or phrase thereof, irrespective of the fact that any one or more subsections, sentences, clauses, or phrases of this section, or its application to any person or transaction or other circumstance, be declared unconstitutional or invalid."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act, upon its approval, shall take effect retroactive to June 19, 1970 and shall apply to all dwelling units developed, constructed, financed, purchased or sold pursuant to Act 105, Session Laws of Hawaii 1970, as amended.

(Approved June 13, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 303

S.B. NO. 3230

A Bill for an Act Relating to Public Officers and Employees.

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

SECTION 1. Section 76-16, Hawaii Revised Statutes, is amended to read:

"§76-16 Civil service and exemptions. The civil service to which this part applies comprises all positions in the State now existing or hereafter established and embraces 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 which are required by state or federal laws or regulations, or orders of the national guard, to be filled from such commissioned or enlisted personnel;

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- (2) Positions filled by persons employed by contract where the director of personnel services has certified that the service is special or unique, is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform such service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions of a temporary nature needed in the public interest where the need for the same does not exceed one year, but before any person may be employed to render such temporary service the director shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable;
- (4) Positions filled by the legislature or by either house or any committee thereof;
- (5) Employees in the office of the 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, jury commissioners, 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; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court,¹ and each judge of the intermediate appellate court, and one law clerk for each judge of the circuit court and the administrative judge of the district court of the first circuit (provided that the law clerk for a judge of the circuit court shall be employed in lieu of and shall have the powers and duties of a court officer and bailiff under section 606-14); sheriff, first deputy sheriff, and second deputy sheriff; and one private secretary for 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 and law clerks;
- (11) Teachers, principals, vice-principals, district superintendents, chief deputy superintendents, other certificated personnel, and not more than twenty noncertificated administrative, professional, and technical personnel not engaged in instructional work in the department of education, and 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[, for which projects federal funds are available];
- (13) Positions filled by inmates, kokusas, and patients of state institutions, and persons with severe physical or mental handicaps participating on the work experience training programs, students, and positions filled through federally funded programs which provide temporary public

- service employment such as the federal Comprehensive Employment and Training Act of 1973;
- (14) A custodian or guide at Iolani Palace, 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 such other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; one additional deputy to administer all hospitals within the jurisdiction of the department of health; one additional deputy in the department of health to administer all environmental health programs within the jurisdiction of the department; one additional deputy in the department of human services either in charge of welfare or such other functions within the department as may be assigned by the director of human services; one additional deputy in the department of health in charge of administration or such other functions within the department as may be assigned by the director of health with the approval of the governor; one additional deputy in the department of business and economic development to perform the duties assigned by the director of business and economic development and approved by the governor; one additional deputy in the department of budget and finance to perform¹ duties assigned by the director of finance and approved by the governor; one additional deputy within the department of land and natural resources to perform the duties to be assigned by the chairperson of the board of land and natural resources; and an administrative assistant to the superintendent of education;
 - (17) Positions specifically exempted from this part by any other law; provided that 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 manpower 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 lunch periods 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 housing authority; provided that no more than twenty-six per cent of the authority's work force 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 which require hiring of nutrition program assistants who live in the areas they serve; and

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- (23) Positions filled by the severely handicapped persons who are certified by the state vocational rehabilitation office that they are able to safely perform the duties of the positions.

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 2. Section 80-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- "(a) The provisions of this section shall apply to:
- (1) Every officer or employee of the State or any of its political subdivisions, or of any department, board, commission, or other agency of the State or any of its political subdivisions, where pay is established by chapter 77, except:
 - (A) Elected officials;
 - (B) The head of any department, first deputy or first assistant; and
 - (C) Officers and employees assigned to salary ranges [29] 31 and over;
 - (2) Students employed by the State or any of its political subdivisions or any department, board, commission, or other agency of the State or any of its political subdivisions, during the students' summer vacation and on an exempt service basis pursuant to applicable regulations of the department of personnel services."

SECTION 3. Chapter 76, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§76- Older Americans program personnel. Employees in an office which is funded wholly or in part under the Older Americans Act of 1965, P.L. 89-73 or under the Domestic Volunteers Services Act of 1973, Public Law 93-113, as amended, who are employed by a county and who are not in the civil service system of that county, may be granted by the chief executive of the county permanent appointment status in the civil service system as provided in this chapter. Permanent appointment status may be granted provided that funds shall have been appropriated for the positions affected and these employees shall not be required to qualify in civil service examinations and shall be entitled to all of the rights, benefits, and privileges (including seniority credit for service in the positions occupied, vacation, and sick leave credits) earned or accrued up to the effective date of this Act, and provided further the creditable service in computing retention rights shall commence at the point of conversion to civil service status. The employees affected shall continue to receive the same rates of pay as a consequence of this section; provided there is no conflict with existing personnel laws or rules."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.²

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

(Approved June 13, 1988.)

Notes

1. So in original.

2. Edited pursuant to HRS §23G-16.5.

ACT 304

S.B. NO. 3248

A Bill for an Act Relating to Bottled Water.

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 BOTTLED WATER”

§ -1 Definitions. For the purposes of this chapter:

“Approved laboratory” means a laboratory approved by the department or other government agency or agencies having jurisdiction or certified by the United States Environmental Protection Agency.

“Approved source”, when used in reference to a bottled water plant’s product water or water used in the plant’s operations, means the source of the water, whether from a spring, artesian well, drilled well, public or community water system, or any other source that has been inspected and the water sampled, analyzed, and found to be of a safe and sanitary quality. The presence in the plant of a current certificate or notification of approval from the department or other government agency or agencies having jurisdiction shall constitute approval of the source.

“Artesian water” means bottled water from a well tapping a confined aquifer in which the water level stands above the water table. “Artesian water” shall meet the requirements of “natural water”.

“Bottled water” means water that is placed in a sealed container or package and is offered for sale for human consumption or other consumer uses.

“Bottled water plant” means any place or establishment in which bottled water is prepared for sale.

“Carbonated water” or “sparkling water” means bottled water containing carbon dioxide.

“C.F.R.” means the Code of Federal Regulations.

“Department” means the department of health.

“Director” means the director of health.

“Distilled water” means bottled water which has been produced by a process of distillation and meets the definition of purified water in the most recent edition of the United States Pharmacopeia.

“Drinking water” means bottled water obtained from an approved source that has at minimum undergone treatment consisting of filtration (activated carbon or particulate) and ozonation or an equivalent disinfection process.

“EPA” means the United States Environmental Protection Agency.

“FDA” means the United States Food and Drug Administration.

“Fluoridated water” means bottled water containing fluoride. The label shall specify whether the fluoride is naturally occurring or added. Any water which meets this definition shall contain not less than 0.5 and not more than 1.0 milligrams per liter fluoride ion and otherwise comply with the Food and Drug Administration (FDA) quality standards in section 103.35(d)(2), title 21 of the Code of Federal Regulations.

“Mineral water” means bottled water that contains not less than 500 parts per million total dissolved solids. “Natural mineral water” shall meet the requirements of “natural water”.

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"Natural water" means bottled spring, mineral, artesian, or well water which is derived from an underground formation and is not derived from a municipal system or public water supply.

"Plant operator" means any person who owns or operates a bottled water plant.

"Purified water" means bottled water produced by distillation, deionization, reverse osmosis, or other suitable process and that meets the definition of purified water in the most recent edition of the United States Pharmacopeia. Water which meets the definition of this paragraph and is vaporized, then condensed, may be labeled "distilled water".

"Spring water" means water derived from an underground formation from which water flows naturally to the surface of the earth. "Spring water" shall meet the requirements of "natural water".

"Water dealer" means any person who imports bottled water or causes bulk water to be transported for bottling for human consumption or other consumer uses.

"Well water" means water from a hole bored, drilled, or otherwise constructed in the ground which taps the water of an aquifer. "Well water" shall meet the requirements of "natural water".

§ -2 Product quality. (a) All bottled water shall be from an approved source and shall not contain any constituent in quantities that may be injurious to health, as established by rules adopted by the department or other government agency or agencies having jurisdiction. All bottled water shall meet standards prescribed by the FDA in 21 C.F.R. section 103.35, except that the total dissolved solids limitation of section 103.35(d) shall not apply to mineral water.

(b) Except as provided in subsection (a), bottled water, including mineral water, shall not exceed any maximum contaminant level (MCL) established by the EPA under the Safe Drinking Water Act or standards established by the department or other government agency or agencies having jurisdiction for any organic or inorganic chemical.

§ -3 Manufacturing, operations; requirements. (a) All bottled water, including mineral water, shall be filtered and processed and packaged in accordance with the FDA good manufacturing practice regulations (GMPs) 21 C.F.R. parts 110 and 129, and any other rules adopted by the department or government agency or agencies having jurisdiction.

(b) Bottled water production, including transporting, processing, packaging, and storage, shall be conducted under such conditions and controls as are necessary to minimize the potential for microbiological contamination of the finished product. These conditions and controls shall include the following:

- (1) Bottled water shall be subject to effective germicidal treatment by ozonation or carbonation at a minimum of three volumes of carbon dioxide or other equivalent disinfection approved by the department or government agency or agencies having jurisdiction;
- (2) Bottled water shall not be transported or stored in bulk tanks or processed or bottled through equipment or lines used for any nonfood product; and
- (3) For optimum consumer protection, in order to minimize the potential for microbiological contamination of the finished product, noncarbonated bottled water shall not be transported, stored, processed, or bottled in or through lines or equipment through which any food product other than water is passed.

(c) Each bottled water plant operator and water dealer shall develop and maintain a procedure for product recall and shall implement this procedure for any

product for which the operator or dealer knows or has reason to believe circumstances exist that may adversely affect its safety for the consumer.

(d) Artesian water may be collected with the assistance of external force to enhance the natural underground pressure so long as such measures do not alter the physical properties, composition, and quality of the water.

(e) Natural water shall not be modified by blending with water of another type or by deletion or addition of dissolved solids except as related to disinfection or other treatment to reduce the concentration of any naturally present constituent which exceeds government-sanctioned or approved safety standards or guidelines. It may be collected and transported by pumps, pipes, tunnels, trucks, or similar devices.

(f) Spring water shall be collected only at the spring or through a bore hole that is adjacent to the point of emergence. Spring water collected with the assistance of external force to protect the water shall retain all the physical properties of and be of the same composition and quality as the water that flows naturally to the surface of the earth.

§ -4 Source water monitoring. (a) The plant operator shall be responsible for sampling and analysis of all approved sources for the contaminants specified in section -2 to assure that product water derived from approved sources continues to comply with section -2. Such monitoring shall be at least annually, except that analysis for microbiological contaminants shall be weekly if the source is other than a public water system.

(b) Approved sources shall be monitored every four years for contaminants for which the EPA under the Safe Drinking Water Act, the department, or other government agency or agencies having jurisdiction requires source water monitoring.

(c) In lieu of source monitoring required by this section, a plant operator using a public water system as its source may obtain and display a certificate from the public water system demonstrating that the public water system conducts the monitoring required by this section.

(d) Where a bottled water plant operator, water dealer, or regulatory agency knows or has reason to believe that a contaminant not otherwise monitored is present in the source water because of a spill, release of a hazardous substance, or otherwise, and its presence would create a potential health hazard to consumers, the plant operator or water dealer upon receipt of such information shall monitor the source water for the contaminant.

(e) Detection of any contaminant in source monitoring required pursuant to this section shall be followed immediately by a program of periodic monitoring to confirm the presence in the source water of the contaminant. If the listed unregulated contaminant is confirmed to be present in the source water at a concentration that exceeds a published EPA health advisory, or an FDA or department or other government agency action level for drinking water, the plant operator or water dealer shall employ appropriate treatment techniques to remove or to reduce the contaminant in the product water below the concentration and shall employ a program of periodic monitoring for the contaminant in the source water until such time as the contaminant is not detectable in the source water.

(f) The required source water sampling shall be performed by qualified personnel and required analysis shall be performed by an approved laboratory. Records of the required sampling and analyses shall be maintained on file at the plant for not less than two years and shall be available for official review upon request of the department or other government agency or agencies having jurisdiction.

§ -5 Finished product monitoring. (a) To assure that bottled water complies with section -2, the following product monitoring of representative samples derived from the bottled product shall be performed:

- (1) For microbiological contaminants specified in section -2, a representative sample from a batch or segment of a continuous production for each type of bottled water produced by the plant shall be analyzed weekly; and
- (2) For chemical, physical, and radiological contaminants specified in section -2, a representative sample from a batch or segment of continuous product run for each type of bottled drinking water produced by the plant shall be analyzed annually.

(b) The required product water sampling shall be performed by qualified personnel and required analysis shall be performed by an approved laboratory.

(c) Records of required sampling and analysis shall be maintained at the plant not less than two years and shall be available for official review upon request of the department or government agency or agencies having jurisdiction.

§ -6 Labeling requirements. All bottled water shall conform to applicable federal and state labeling laws and be labeled in compliance with the following standards:

- (1) Mineral water may be labeled "mineral water". Bottled water to which minerals are added shall be labeled so as to disclose that minerals are added, and may not be labeled "natural mineral water".
- (2) Spring water may be labeled "spring water" or "natural spring water".
- (3) Water containing carbon dioxide that emerges from the source and is bottled directly with its entrapped gas or from which the gas is mechanically separated and later reintroduced at a level not higher than naturally occurring in the water may bear on its label the words "naturally carbonated" or "naturally sparkling".
- (4) Bottled water which contains carbon dioxide other than that naturally occurring in the source of the product shall be labeled with the words "carbonated", "carbonation added", or "sparkling" when the carbonation is obtained from a natural or manufactured source.
- (5) Well water may be labeled "well water" or "natural well water".
- (6) Artesian water may be labeled "artesian water" or "natural artesian water".
- (7) Purified water shall be labeled "purified water" and the method of preparation shall be stated on the label, except that purified water produced by distillation may be labeled as "distilled water".
- (8) Drinking water may be labeled "drinking water".
- (9) Any bottler, distributor, or vendor of bottled water whose corporate name, brand name, or trademark contains the words "spring", "well", "artesian", "mineral", or "natural" or any derivative of those words shall label each bottle with the type of bottled water in typeface at least equal to the size of the typeface of the corporate name, brand name, or trademark, if the type of the bottled water is different from the type stated or implied in the corporate name, brand name, or trademark.
- (10) The use of the word "spring", or any derivative thereof other than in a trademark, trade name, or company name to describe water that is not spring water as defined in section -1 shall be prohibited.
- (11) A product meeting more than one definition as stated in section -1 may be identified by any of the applicable product types defined in section -1, except where otherwise specifically prohibited.

- (12) Supplemental printed information and graphics concerning recognized uses of the water may appear on the label but shall not imply properties of the product or preparation methods which are not factual.

§ -7 Exemption; soda water, soft drink. (a) Bottled soft drinks, soda, seltzer, or other products commonly recognized as soft drinks and labeled with a common or usual name other than one of those specified in section -1 or food complying with 21 C.F.R. 165.175 are exempt from the requirements of this chapter. Water that is not in compliance with the requirements of this chapter may not be labeled as "artesian water", "bottled water", "distilled water", "drinking water", "fluoridated water", "mineral water", "natural water", "purified water", "spring water", or "well water".

(b) Bottled water that is not sold for human consumption shall be exempt from the requirements of this chapter, provided that the product is labeled "not for human consumption" in prominent lettering.

§ -8 Rules. The director shall adopt rules pursuant to chapter 91 to implement this chapter.

§ -9 Administrative penalties. (a) Any person who violates this chapter or any rule adopted by the department pursuant to this chapter shall be fined not more than \$10,000 for each separate offense. Any action taken to collect the penalty provided for in this subsection shall be considered a civil action.

(b) In addition to any other administrative or judicial remedy provided by this chapter, or by rules adopted pursuant to this chapter, the director may impose by order the administrative penalty specified in this section. Factors to be considered in imposing the administrative penalty include the nature and history of the violation and of any prior violation, and the opportunity, difficulty, and history of corrective action. For any judicial proceeding to recover the administrative penalty imposed, the director need only show that notice was given, a hearing was held or the time granted for requesting a hearing has expired without such a request, the administrative penalty was imposed, and that the penalty remains unpaid.

§ -10 Injunctive relief. The director may institute a civil action in any court of competent jurisdiction for injunctive relief to prevent any violation of this chapter or any rule adopted to implement this chapter. The court shall have powers to grant relief in accordance with the Hawaii rules of civil procedure."

SECTION 2. This Act shall take upon its approval. The labeling requirements of this Act shall take effect one year from the date of this Act's approval.

(Approved June 13, 1988.)

ACT 305

S.B. NO. 3291

A Bill for an Act Relating to Psychology.

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

SECTION 1. Section 351-15, Hawaii Revised Statutes, is amended to read as follows:

"**§351-15 Medical examination.** The criminal injuries compensation commission may appoint an impartial licensed physician or licensed psychologist to

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examine any person making application under this chapter, and the fees for the examination shall be paid from funds appropriated for expenses of administration.”

SECTION 2. Section 353-66, Hawaii Revised Statutes, is amended to read as follows:

“§353-66 Terms and conditions of parole; suspension and revocation.

Every parole granted under this part to any prisoner shall be subject to the express condition, to be set forth in the official written notification of parole to the prisoner, but to be binding upon the prisoner in any event, that all or any portion of the prisoner's credits earned or to be earned may be forfeited by order of the Hawaii paroling authority in the event that the prisoner breaks the prisoner's parole or violates any law of the State or rule [or regulation] of the paroling authority or any of the terms or conditions of the prisoner's parole. No parole shall be revoked and no credits forfeited without cause, which cause must be stated in the order revoking the parole, or forfeiting the credits after notice to the paroled prisoner of the paroled prisoner's alleged offense and an opportunity to be heard; provided that when a person is convicted in the State of a crime committed while on parole and is sentenced to imprisonment, or when it is shown by personal investigation that a parolee has left the State without permission from the paroling authority and due effort is made to reach the parolee by registered mail directed to the parolee's last known address, no hearing shall be required to revoke the parolee's parole; and provided further that when any duly licensed psychiatrist or licensed psychologist finds that continuance on parole will not be in the best interests of a parolee or the community, the paroling authority, within the limitations of the sentence imposed, shall order the detention and treatment of the prisoner until such time as the prisoner shall be found by any duly licensed psychiatrist or licensed psychologist to be [psychiatrically] eligible for continuance on parole.

If any paroled prisoner leaves the State without permission from the paroling authority, or if the whereabouts of any paroled prisoner is not known to the paroling authority because of the neglect or failure of the prisoner to so inform it, the paroling authority may order the parole suspended pending apprehension. From and after the suspension of the parole of any paroled prisoner and until the paroled prisoner's return to custody, the paroled prisoner shall be deemed an escapee and a fugitive from justice, and no part of the time during which the paroled prisoner is an escapee and a fugitive from justice shall be part of the paroled prisoner's term.

The paroling authority may at any time order the arrest and temporary return to custody of any paroled prisoner, as provided in section 353-65, for the purpose of ascertaining whether or not there is sufficient cause to warrant the paroled prisoner's reimprisonment or the revoking of the paroled prisoner's parole or other action provided for by this part.

Any paroled prisoner retaken and reimprisoned as provided in this chapter shall be confined according to the paroled prisoner's sentence for that portion of the paroled prisoner's term remaining unserved at time of parole, but successive paroles may, in the discretion of the paroling authority, be granted to the prisoner during the life and in respect of the sentence.”

SECTION 3. Section 560:5-303, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Upon the filing of a petition, the family court shall set a date for hearing on the issues of incapacity and, if at any time in the proceeding, the court determines that the interests of the allegedly incapacitated person are or may be inadequately represented, it shall appoint a guardian ad litem. The person alleged to be incap-

pacitated may be examined by a physician or licensed psychologist appointed by the family court who shall submit [his] a report in writing to the court and may be interviewed by a family court officer or other person designated by the family court. If so ordered by the family court, the family court officer or other person also shall interview the person seeking appointment as guardian of the person, shall visit the present place of abode of the person alleged to be incapacitated and the place it is proposed that [he] the person will be detained or reside if the requested appointment is made, and shall submit [his] a report in writing to the family court. The person alleged to be incapacitated is entitled to be present at the hearing in person, and to see or hear all evidence bearing upon [his] the person's condition. [He] The person alleged to be incapacitated is entitled to be represented by an attorney, to present evidence, to cross-examine witnesses, including any person submitting a report and the family court officer or other person designated by the court to interview [him] the person. The issue may be determined at a closed hearing."

SECTION 4. Section 560:5-407, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Upon receipt of a petition for appointment of a guardian of the property or other protective order for reasons other than minority, the court shall set a date for hearing on the matters alleged in the petition. Unless the person to be protected has competent counsel of [his] that person's own choice, the court shall appoint an appropriate official or attorney to represent [him] the person, who shall have the powers and duties of a guardian ad litem. If the alleged disability is mental illness, mental deficiency, physical illness or disability, advanced age, chronic use of drugs, or chronic intoxication, the court may direct that the person to be protected be examined by a physician or, with the exception of physical illness or disability, a licensed psychologist designated by the court, preferably a physician or psychologist who is not connected with any institution in which the person is a patient or is detained. The court may appoint a court officer or other person to interview the person to be protected and the person seeking appointment. The person so appointed shall submit [his] a report in writing to the court."

SECTION 5. Section 704-404, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

"(2) Upon suspension of further proceedings in the prosecution, the court shall appoint three qualified examiners to examine and report upon the physical and mental condition of the defendant. In each case the court shall appoint at least one psychiatrist and at least one licensed psychologist. The third member may be either 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. The three examiners shall be appointed from a list of certified [[sanity]] examiners as determined by the state department of health. 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, and may direct that one or more qualified physicians or psychologists retained by the defendant be permitted to witness and participate in the examination."

SECTION 6. Section 704-410, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) At the hearing pursuant to section 704-405 or upon the trial, the examiners who reported pursuant to section 704-404 may be called as witnesses

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by the prosecution, the defendant, or the court. If the issue is being tried before a jury, the jury may be informed that the examiners or any of them were designated by the court or by the director of health at the request of the court, as the case may be. If called by the court, the witness shall be subject to cross-examination by the prosecution and the defendant. Both the prosecution and the defendant may summon any other qualified physician or licensed psychologist or other expert to testify, but no one who has not examined the defendant shall be competent to testify to an expert opinion with respect to the physical or mental condition of the defendant, as distinguished from the validity of the procedure followed by, or the general scientific propositions stated by, another witness.'

SECTION 7. Section 704-411, Hawaii Revised Statutes, is amended by amending subsections (1), (3), and (4) to read as follows:

"(1) When a defendant is acquitted on the ground of physical or mental disease, disorder, or defect excluding responsibility, the court shall, on the basis of the report made pursuant to section 704-404, if uncontested, or the medical or psychological evidence given at the trial or at a separate hearing, make an order as follows:

- (a) The court shall order him to be committed to the custody of the director of health to be placed in an appropriate institution for custody, care, and treatment if the court finds that the defendant presents a risk of danger to himself or others and that he is not a proper subject for conditional release; provided that the director of health shall place defendants charged with misdemeanors or felonies not involving violence or attempted violence in the least restrictive environment appropriate in light of the defendant's treatment needs and the need to prevent harm to the person confined and others; or
- (b) The court shall order the defendant to be released on such conditions as the court deems necessary if the court finds that the defendant is affected by physical or mental disease, disorder, or defect and that he presents a danger to himself or others, but that he can be controlled adequately and given proper care, supervision, and treatment if he is released on condition; or
- (c) The court shall order him discharged from custody if the court finds that the defendant is no longer affected by physical or mental disease, disorder, or defect, or, if so affected, that he no longer presents a danger to himself or others and is not in need of care, supervision, or treatment."

"(3) When ordering such a hearing the court shall appoint three qualified examiners to examine and report upon the physical and mental condition of the defendant. In each case the court shall appoint at least one psychiatrist and at least one licensed psychologist. The third member may be either a psychiatrist, licensed psychologist, or a 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. The three examiners shall be appointed from a list of certified sanity examiners as determined by the state department of health. To facilitate such examination and the proceedings thereon, the court may cause the defendant, if not then so confined, to be committed to a hospital or other suitable facility for the purpose of examination and may direct that qualified physicians or psychologists retained by the defendant be permitted to witness and participate in the examination. The examination and report and the compensation of persons making or assisting in the examination shall be in accord with section 704-404(3), (4)(a) and (b), (6), (7), (8), and (9). As used in this section, the term "licensed psychologist" includes psychologists exempted from licensure by section [465-3(3)] 465-3(a)(3).

(4) Whether the court's order under subsection (1) is made on the basis of the medical or psychological evidence given at the trial, or on the basis of the report made pursuant to section 704-404, or the medical or psychological evidence given at a separate hearing, the burden shall be upon the State to prove, by a preponderance of the evidence, that the defendant may not safely be discharged and that he should be either committed or conditionally released as provided in subsection (1)."

SECTION 8. Section 704-413, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

"(2) Any person released on condition pursuant to section 704-411 may apply to the court ordering the conditional release for discharge from or modification of the order granting conditional release on the ground that he may be discharged or the order modified without danger to himself or to others. The application shall be accompanied by a supporting affidavit of a qualified physician[.] or licensed psychologist. A copy of the application and affidavit shall be transmitted to the prosecuting attorney of the county in which the person is confined and to any persons supervising his release and the hearing on the application shall be held following notice to such persons. If the determination of the court is adverse to the application, such person shall not be permitted to file further application until one year has elapsed from the date of any preceding hearing on an application for modification of conditions of release or for discharge."

SECTION 9. Section 704-414, Hawaii Revised Statutes, is amended to read as follows:

"§704-414 Procedure upon application for discharge, conditional release, or modification of conditions of release. Upon filing of an application pursuant to section 704-412 for discharge or conditional release, or upon the filing of an application pursuant to section 704-413 for discharge or for modification of conditions of release, the court shall appoint three qualified examiners to examine and report upon the physical and mental condition of the defendant. In each case the court shall appoint at least one psychiatrist and at least one licensed psychologist. The third member may be either 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. The three examiners shall be appointed from a list of certified sanity examiners as determined by the state department of health. To facilitate such examination and the proceedings thereon, the court may cause such person, if not then so confined, to be committed to a hospital or other suitable facility for the purpose of the examination and may direct that qualified physicians or psychologists retained by the person be permitted to witness and participate in the examination. The examination and report and the compensation of persons making or assisting in the examination shall be in accord with section 704-404(3), (4)(a), (b), (6), (7), (8), and (9). As used in this section, the term "licensed psychologist" includes psychologists exempted from licensure by section [465-3(3)] 465-3(a)(3)."

SECTION 10. Section 706-604, Hawaii Revised Statutes, is amended by amending subsections (2) and (3) to read as follows:

"(2) The court shall furnish to the defendant or [his] the defendant's counsel and to the prosecuting attorney a copy of the report of any pre-sentence diagnosis or psychological or psychiatric or other medical examination and afford fair opportunity, if the defendant or the prosecuting attorney so requests, to controvert or supplement them.

(3) If the defendant is sentenced to imprisonment, a copy of the report of any pre-sentence diagnosis or psychological or psychiatric or other medical examination shall be transmitted forthwith to the department of corrections or, when the defendant is committed to the custody of a specific institution, to such institution."

SECTION 11. Section 706-662, Hawaii Revised Statutes, is amended to read as follows:

"§706-662 Criteria for extended terms of imprisonment. A convicted defendant may be subject to an extended term of imprisonment under section 706-661, if the convicted defendant satisfies one or more of the following [definitions:] criteria:

- (1) [Persistent offender.] The defendant is a persistent offender whose imprisonment for an extended term is necessary for protection of the public. The court shall not make such a finding unless the defendant has previously been convicted of two felonies committed at different times when he was eighteen years of age or older.
- (2) [Professional criminal.] The defendant is a professional criminal whose imprisonment for an extended term is necessary for protection of the public. The court shall not make such a finding unless:
 - (a) The circumstances of the crime show that the defendant has knowingly devoted himself to criminal activity as a major source of livelihood; or
 - (b) The defendant has substantial income or resources not explained to be derived from a source other than criminal activity.
- (3) [Dangerous person.] The defendant is a dangerous person whose imprisonment for an extended term is necessary for protection of the public. The court shall not make such a finding unless the defendant has been subjected to a psychiatric [examination resulting in the conclusion that his criminal conduct has been characterized by compulsive, aggressive behavior with heedless indifference to consequences, and that such condition] or psychological evaluation which documents a significant history of dangerousness to others resulting in criminally violent conduct, and that such history makes [him] the defendant a serious danger to others. Nothing in this section precludes the introduction of victim-related data in order to establish dangerousness in accord with Hawaii Rules of Evidence.
- (4) [Multiple offender.] The defendant is a multiple offender whose [criminality was] criminal actions were so extensive that a sentence of imprisonment for an extended term is necessary for protection of the public. The court shall not make such a finding unless:
 - (a) The defendant is being sentenced for two or more felonies or is already under sentence of imprisonment for felony; or
 - (b) The maximum terms of imprisonment authorized for each of the defendant's crimes, if made to run consecutively would equal or exceed in length the maximum of the extended term imposed, or would equal or exceed forty years if the extended term imposed is for a class A felony.
- (5) [Offender against elderly, handicapped, or minor under the age of eight.] The defendant is an offender against the elderly, handicapped, or minor under the age of eight whose imprisonment for an extended term is necessary for the protection of the public. The court shall not make such a finding unless:

- (a) The defendant attempts or commits any of the following crimes: murder, a sexual offense which constitutes a felony under chapter 707, robbery, felonious assault, burglary, and kidnapping; and
- (b) The defendant, in the course of committing or attempting to commit the crime, inflicts serious or substantial bodily injury upon a person who is:
 - (i) Sixty years of age or older;
 - (ii) Blind, a paraplegic, or a quadriplegic; or
 - (iii) Eight years of age or younger; and
- (c) Such disability is known or reasonably should be known to the defendant."

SECTION 12. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 13. This Act shall take effect upon its approval.

(Approved June 13, 1988.)

ACT 306

S.B. NO. 3378

A Bill for an Act Relating to Motor Vehicle Insurance.

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

SECTION 1. Act 347, Session Laws of Hawaii 1987, Section 431:10C-301 is amended to read as follows:

"§431:10C-301 Required motor vehicle policy coverage. (a) In order to meet the requirements of a no-fault policy as provided in this article, an insurance policy covering a motor vehicle shall provide:

- (1) Coverage specified in section 431:10C-304; and
- (2) Insurance to pay on behalf of the owner or any operator of the insured motor vehicle using the motor vehicle with the express or implied permission of the named insured, sums which the owner or operator may legally be obligated to pay for injury, death, or damage to property of others, except property owned by, being transported by, or in the charge of the insured, which arise out of the ownership, operation, maintenance, or use of the motor vehicle.
- (b) A motor vehicle insurance policy shall include:
 - (1) Liability coverage of not less than \$35,000 for all damages arising out of accidental harm sustained by any one person as a result of any one accident applicable to each person sustaining accidental harm arising out of ownership, maintenance, use, loading, or unloading of the insured vehicle;
 - (2) Liability coverage of not less than \$10,000 for all damages arising out of injury to or destruction of property including motor vehicles and including the loss of use thereof, but not including property owned by, being transported by, or in the charge of the insured, as a result of any one accident arising out of ownership, maintenance, use, loading, or unloading, of the insured vehicle; [and]
 - (3) With respect to any motor vehicle registered or principally garaged in this State, liability coverage provided therein or supplemental thereto, in limits for bodily injury or death set forth in section 287-7, under

- provisions filed with and approved by the commissioner, for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness, or disease, including death, resulting therefrom; provided, however, that the coverage required under this [section] paragraph shall not be applicable where any named insured [named] in the policy shall reject the coverage in writing[.]; and
- (4) Coverage for loss resulting from bodily injury or death suffered by any person legally entitled to recover damages from owners or operators of underinsured motor vehicles. An insurer may offer the underinsured motorists coverage required by this paragraph in the same manner as uninsured motorists coverage; provided that such offer of both shall:
- (A) Be conspicuously displayed so as to be readily noticeable by the insured;
 - (B) Set forth the premium for the coverage adjacent to the offer in such a manner that the premium is clearly identifiable with the offer and may be easily subtracted from the total premium to determine the premium payment due in the event the insured elects not to purchase the option; and
 - (C) Provide for written rejection of the coverage by requiring the insured to affix the insured's signature in a location adjacent to or directly below the offer."

SECTION 2. Act 347, Session Laws of Hawaii 1987, Section 431:10C-302 is amended to read as follows:

- "§431:10C-302 Required optional additional insurance.** (a) In addition to the no-fault coverages described in section 431:10C-301, every insurer issuing a no-fault policy shall make available to the insured the following optional insurance under the following conditions:
- (1) At the option of the insured, provisions covering loss resulting from damage to the insured's motor vehicle with such deductibles as the commissioner, by regulation, shall provide;
 - (2) At the option of the insured, compensation to the insured, the insured's spouse, any dependents, or any occupants of the insured's vehicle for damages not covered by no-fault benefits;
 - (3) Additional coverages and benefits with respect to any injury, death, or any other loss from motor vehicle accidents or from operation of a motor vehicle for which the insurer may provide for aggregate limits with respect to such additional coverage so long as the basic liability coverages provided are not less than those required by section 431:10C-301(b)(1) and (b)(2);
 - [4) Coverage for loss resulting from bodily injury or death suffered by any person legally entitled to recover damages from owners or operators of underinsured motor vehicles;
 - (5) (4) Terms, conditions, exclusions, and deductible clauses, coverages and benefits which:
 - (A) Are consistent with the required provisions of such policy,
 - (B) Limit the variety of coverage available so as to give buyers of insurance reasonable opportunity to compare the cost of insuring with various insurers, and
 - (C) Are approved by the commissioner as fair and equitable; and

- [(6)] (5) At appropriately reduced premium rates, deductibles applicable only to claims of a no-fault¹ insured or of the insured's survivors in case of the insured's death in the amounts of \$100, \$300, and \$500 from all no-fault insureds to whom the deductible is applicable under the contract of insurance are injured in the same accident, the aggregate amount of the deductible applicable to all of them shall not exceed the specified deductible, which amount where necessary shall be allocated equally among them.
- (b) In accordance with the [regulations promulgated] rules adopted by the commissioner, a policy of insurance described in this section shall contain a provision specifying the periods within which claims may be filed and action¹ may be brought against the insurer."

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

SECTION 4. This Act shall take effect six months after its approval.

(Approved June 13, 1988.)

Note

1. So in original.

ACT 307

H.B. NO. 479

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. Section 521-7, Hawaii Revised Statutes, is amended to read as follows:

"§521-7 Exclusions from application of chapter. Unless created solely to avoid the application of this chapter, this chapter shall not apply to:

- (1) Residence at an institution, whether public or private, where residence is merely incidental to detention or the provision of medical, geriatric, educational, religious, or similar services.
- (2) Residence in a structure directly controlled and managed by the University of Hawaii for housing students or faculty of the University of Hawaii or residence in a structure erected on land leased from the University of Hawaii by a nonprofit corporation for the exclusive purpose of housing students or faculty of the University of Hawaii.
- (3) Occupancy under a bona fide contract of sale of the dwelling unit or the property of which it is a part where the tenant is, or succeeds to the interest of, the purchaser.
- (4) Residence by a member of a fraternal organization in a structure operated without profit for the benefit of the organization.
- (5) Transient occupancy on a day to day basis in a hotel or motel.
- (6) Occupancy by an employee of the owner or landlord whose right to occupancy is conditional upon such employment or by a pensioner of the owner or landlord.
- (7) A lease of improved residential land for a term of fifteen years or more, measured from the date of the commencement of the lease.

- (8) Occupancy by the prospective purchaser after an accepted offer to purchase and prior to the actual transfer of the owner's rights.
- (9) Except as provided in section 521-, occupancy in a project for temporary or transitional housing for homeless persons operated by a nonprofit corporation; provided that the non-profit corporation operating the project has filed a copy of its current rules and regulations governing tenancy at the project, and any changes thereto, with the director of commerce and consumer affairs, which rules and regulations shall be reasonable and a copy of which shall have been provided to each tenant."

SECTION 2. Section 521-8, Hawaii Revised Statutes, is amended by adding four new definitions to be appropriately inserted and to read as follows:

- "Homeless person" means a person who does not reside within a dwelling unit.
- "Temporary housing for the homeless" means a shelter which provides short-term housing for homeless persons.
- "Transitional housing for the homeless" means a shelter which provides housing and social programs for homeless persons with the goal of assisting such persons to move into dwelling units.
- "Non-profit corporations" means organizations incorporated under chapter 415B."

SECTION 3. Section 521-43, Hawaii Revised Statutes, is amended to read as follows:

"§521-43 Rental agreement, disclosure. (a) A landlord or any person authorized to enter into a rental agreement on the landlord's behalf shall disclose to the tenant in writing at or before the commencement of the tenancy the name and address of:

- (1) Each person authorized to manage the premises; and
- (2) Each person who is an owner of the premises or who is authorized to act for or on behalf of the owner for the purpose of service of process and receiving and receipting for rents, notices, and demands.

The information required to be furnished shall be kept current and shall be enforceable against any successor landlord, owner, or manager.

(b) A person who fails to comply with subsection (a) becomes an agent of each person who is a landlord for:

- (1) Service of process and receiving and receipting for rents, notices, and demands; and
- (2) Performing the obligations of the landlord under this chapter and under the rental agreement and expending or making available for the purpose all rent collected from the premises.

(c) Any owner or landlord not dealing directly with the tenant shall be responsible for compliance with this section by an owner or landlord dealing directly with the tenant and shall be stopped¹ from any objection to a failure to serve process upon an owner or landlord in any proceeding arising under this chapter when such failure is due to failure to comply with this section. The owner or landlord who deals directly with the tenant and fails to comply with this section shall be deemed an agent of every other landlord under the rental agreement for performing the obligations of the landlord under this chapter and under the rental agreement.

(d) In the case of a written rental agreement, the landlord shall furnish a copy of the lease or rental agreement to the tenant.

(e) The landlord shall furnish to the tenant a written receipt for rents paid at the time of [said] payment. Cancelled checks shall also constitute and fulfill the requirement of a written receipt. If rent is paid by check, the landlord shall furnish a receipt therefor, provided [such] a receipt is requested by the tenant.

(f) Any owner or landlord who resides without the State or on another island from where the rental unit is located [must] shall designate on the written rental agreement an agent residing on the same island where the unit is located to act in the owner's or landlord's behalf. In the case of an oral rental agreement, [such] the information shall be supplied to the tenant, on demand, in a written statement.

(g) Subsections (a) and (b) to the contrary notwithstanding, the information required to be disclosed to a tenant [may], instead of being disclosed in the manner described in subsections (a) and (b), may be disclosed as follows:

- (1) In each multi-unit single-owner dwelling structure containing an elevator, a printed or typewritten notice containing the information required by subsections (a) and (b) shall be placed and continuously maintained in every elevator and in one other conspicuous place;
- (2) In each multi-unit single-owner dwelling structure not containing an elevator, a printed or typewritten notice containing the information required by subsections (a) and (b) shall be placed and continuously maintained in at least two conspicuous places;
- (3) In each multi-unit dwelling structure, a printed or typewritten notice containing the information required by subsections (a) and (b) shall be posted within the unit in a conspicuous place.

(h) Landlords shall provide their general excise tax number to all tenants for the purpose of filing for a low-income tax credit."

SECTION 4. Section 521-71, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) When the tenancy is month to month, the landlord or the tenant may terminate the rental agreement upon the landlord's or the tenant's notifying the other, in writing, at least twenty-eight days in advance of the anticipated termination. Before a landlord terminates a month-to-month tenancy where the landlord contemplates voluntary demolition of the dwelling units, or conversion to horizontal property regime under chapter 514A, the landlord shall provide notice to the tenant at least one hundred twenty days in advance of the anticipated demolition or anticipated termination, and shall comply with the provisions relating to conversions provided in section 514A-105. If notice is revoked or amended and reissued, the one hundred twenty-day period shall begin from the date it was reissued or amended. Any notice provided, revoked, or amended and reissued shall be in writing."

SECTION 5. Chapter 521, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

§ _____.¹ Any person who enters or remains unlawfully in or upon the premises or living quarters of any project for temporary or transitional housing for the homeless, as defined in section 521-8, after reasonable warning or request to leave by project authorities or a police officer, shall be guilty of a misdemeanor. A warning or request shall only be issued if the person has engaged in unlawful conduct or has violated house rules and regulations as described in section 521-7(9). The warning or request shall supercede any invitation by a tenant of the project to that person to visit the premises or living quarters."²

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.²

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

(Approved June 13, 1988.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

ACT 308

H.B. NO. 1600

A Bill for an Act Relating to Medical Care Payments.

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

SECTION 1. Section 346-59, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Rates of payment to providers of medical care who are individual practitioners, including doctors of medicine, dentists, podiatrists, psychologists, osteopaths, optometrists, and other individuals providing services, shall be based upon the most current profile[, or adjusted profile,] available of usual and customary fees [selected by the legislature as the basis of the appropriation for such care for any fiscal year.] and the percentage of the profile in proportion to the funds appropriated by the legislature. The amounts paid shall not exceed the maximum permitted to be paid individual practitioners or other individuals under federal law and regulation and shall not exceed the reasonable charge under the medicare program, based on the same profile base year selected by the legislature for the medicaid profiles, the state limits as provided in the appropriation act, and the provider's billed amount.

The appropriation act shall indicate the [profile] percentage used as the basis for the appropriation of each fiscal year. If that [profile] percentage has been adjusted by the legislature, the legislature shall specify the extent of the adjustment in the appropriation act.

This section notwithstanding; providers shall not be reimbursed an amount less than their existing payment rates unless a reduction is specifically intended and required by law.”

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

SECTION 3. This Act shall take effect on July 1, 1988.

(Approved June 13, 1988.)

ACT 309

H.B. NO. 2054

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 children require substantial care, attention, support, and nurturing to enable them to fully develop their physical, emotional, social, and intellectual capacities. Although quality care of children is

of critical importance, there are many obstacles to providing such care. The first of these is that few parents have adequate background in parenting and are often overwhelmed. The second is the fact that the majority of mothers in Hawaii are employed outside the home, necessitating child care arrangements beyond what they are able to do themselves.

One result of these complexities of modern society is child abuse and neglect. In this regard, primary prevention is widely recognized as the most effective and least costly approach to reduce the incidence of child abuse and neglect. In recent years two innovative and apparently successful preventive approaches have been developed in other jurisdictions.

The first approach involves parent education classes to teach effective parenting, such as has been done in Minnesota. The classes apparently reduce the potential for child abuse and neglect by helping parents and other caregivers cope with the stresses of child rearing and linking them with community resources.

The second approach is that of a parent information telephone line which provides a free source of information about child care, development, discipline, and the growth of children, for any parent or individual who calls.

The purpose of this Act is to appropriate funds to establish a parent information telephone line and a parenting education demonstration project.

SECTION 2. 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 1988-1989, for a parent information telephone line and a parenting education demonstration project. The parent education project shall be based on a model similar to that established in Minnesota and shall be a primary prevention approach emphasizing positive parenting techniques. The sum appropriated shall be expended by the department of health.

SECTION 3. This Act shall take effect on July 1, 1988.

(Approved June 13, 1988.)

ACT 310

H.B. NO. 2055

A Bill for an Act Relating to Employment Assistance.

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

SECTION 1. The legislature finds that the aid to families with dependent children (AFDC) and general assistance (GA) programs provide assistance to families with children if a parent is unemployed, absent from home, disabled, or deceased. Many families qualify for these programs because of unemployment. For these families, AFDC and GA were meant to provide temporary assistance until employment could be secured. Although parents receiving AFDC and GA may desire to work, there are certain disincentives for seeking employment. For example, should a recipient become employed, financial assistance benefits are reduced according to the amount of income received. Furthermore, newly employed parents may require child care services, which can be costly. As a result, when a parent secures employment, there is oftentimes a reduction in the total income and benefit package, especially if the employment is at a minimum wage level.

The legislature further finds that AFDC and GA, while worthy in their intent, can inadvertently keep families dependent upon these programs. In fact, a

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cycle of dependence has developed whereby children in families receiving AFDC benefits eventually become parents of recipient families. Dependence on AFDC or GA creates a double negative for society since it drains society of its resources and neutralizes potentially productive members of society.

The purpose of this Act is to fund the first year of a three-year demonstration project to create incentives for parents of families receiving AFDC or GA to seek employment by providing child care, health care, and housing benefits after employment has been secured.

The maximum income limit in determining eligibility for these benefits shall not exceed one hundred fifty per cent of the poverty income guideline for the State of Hawaii.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,613,578 or so much thereof as may be necessary, for fiscal year 1988-1989, for a demonstration project to provide incentives to 300 families receiving assistance from the AFDC or GA program to make a successful transition to full-time permanent employment or to participate in a job training program. Child care, health care, and housing assistance shall be provided to these families who no longer qualify for AFDC or GA benefits.

SECTION 3. The sum appropriated shall be expended by the department of human services for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 1988.

(Approved June 13, 1988.)

ACT 311

H.B. NO. 2068

A Bill for an Act Making An Appropriation for a Methanol-From-Biomass Program.

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

SECTION 1. The legislature finds that Hawaii's energy crises of 1973 and 1979 impacted heavily on the State's transportation fuel supply as nearly sixty per cent of the energy used in Hawaii is for transportation needs. Despite this, most of the energy research and development promoted in the State thus far has been related to electricity (geothermal, photovoltaics, hydroelectricity, OTEC, and HPOWER). While the crises occurred many years ago, the legislature believes that the attainment of energy independence through the development of indigenous sources of transportation fuel should not be overlooked or deferred any longer.

The legislature further finds that a recent study by the Hawaii natural energy institute of the University of Hawaii indicates that three per cent of Hawaii's land area could grow sufficient biomass feedstock to produce 440 million gallons of methanol which is the approximate energy equivalent of all the gasoline used by Hawaii's automobiles. Moreover, Hawaii is an ideal site for testing and evaluating transition strategies for the use of methanol as an automotive fuel for the future because of its year-round warm climate, the maximum driving distance of fifty miles from any point on Oahu to its central business district, and the high density of federal and nonfederal vehicles.

The purpose of this Act is to express the State's commitment toward biofuels research and development programs by appropriating matching funds to support a methanol-from-biomass pilot plant feasibility study and cost-sharing funds to begin

plans and construction of a methanol-from-biomass pilot research plant. It is the intent of the legislature that any remaining capital improvement funding requirements for the construction of the plant shall be appropriated during the 1989-1991 fiscal biennium.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$220,000, or so much thereof as may be necessary for fiscal year 1988-1989, to conduct a methanol-from-biomass research pilot plant feasibility study by the Hawaii natural energy institute of the University of Hawaii; provided that no funds shall be made available under this section unless matching funds are obtained from the federal government for the purpose for which this sum is appropriated.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,000,000, or so much thereof as may be necessary for fiscal year 1988-1989, for the plans and construction of a methanol-from-biomass research pilot plant.

SECTION 4. The sums appropriated shall be expended by the University of Hawaii.

SECTION 5. This Act shall take effect on July 1, 1988.

(Approved June 13, 1988.)

ACT 312

H.B. NO. 2220

A Bill for an Act Relating to Out-Of-State Vehicle Permit.

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

SECTION 1. Section 286-54, Hawaii Revised Statutes, is amended to read as follows:

“§286-54 [Nonresidents] Out-of-state vehicle permit. [A nonresident] The owner of a motor vehicle which has been duly registered for the current year in [the] another state or country [of which the nonresident owner is a resident] and in accordance with the laws thereof, may, in lieu of registering the vehicle as otherwise required by this part, apply to the director of finance for the registration thereof as provided in this section.

[A nonresident] The owner shall, within ten days after commencing to operate the vehicle or causing or permitting it to be operated within the State, apply to the director of finance for the registration thereof upon the appropriate official form stating therein the name and home address of the owner and the temporary address, if any, of the owner while within the State, the registration number of the vehicle as assigned thereto [in] by the state or country [in which the owner is a resident], together with such description of the motor vehicle as may be called for in the form and such other statements of facts as may be required by the director of finance.

The director of finance shall file every application received and register the vehicle therein described [and the owner thereof in suitable books or on index cards,] and shall issue to the owner a registration certificate of a distinctive form containing the date of its issue, a brief description of the vehicle, and a statement that the owner has procured registration of the vehicle [as a nonresident].

ACT 313

No [nonresident] owner of a motor vehicle which has been duly registered for the current year in [the] another state or country [of which the nonresident owner is a resident] shall operate any such vehicle or cause or permit to be operated upon the public highways, either before or while it is registered under this section, unless there is at all times displayed thereon the current registration number plates assigned to the vehicle by the other state or country [of which the owner is a resident], nor unless the certificate of registration is kept within the vehicle for which it is registered, or in the event the vehicle is a motorcycle, carry such certificate of registration in a convenient receptacle attached to the vehicle. The director of finance shall also furnish the owner with an emblem bearing a serial number with the words "VEHICLE PERMIT" and the date of expiration of such emblem to be placed on the rear bumper in plain sight of such vehicle, or when issued to a motorcycle emblem to be placed on rear fender.

Every certificate of registration issued pursuant to this section shall be valid for the unexpired portion of the current license number plates assigned to the vehicle in accordance with the law of the other state or country [of which the owner is a resident]; provided that in no case shall such a certificate be issued to exceed a twelve month period.

Whenever a vehicle is registered under this section, the sum of \$5 shall be assessed against the owner of the vehicle to defray the administrative costs incurred by the county. Subsequent changes in the amount of the administrative costs shall be established by the county's legislative body."

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

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

(Approved June 13, 1988.)

ACT 313

H.B. NO. 2345

A Bill for an Act Relating to Rooming Houses.

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

SECTION 1. The legislature finds that the rooming house population of this State is largely composed of elderly or disabled persons, many of whom are recipients of public assistance. Their physical or mental disabilities, coupled with their economic status, renders them particularly susceptible to exploitation. The purpose of this Act is to regulate trade practices in the rooming house business, and to prohibit those practices which the legislature finds to be unfair, deceptive, or contrary to public policy.

SECTION 2. Section 445-90, Hawaii Revised Statutes, is amended by adding "rooming house" to the definition of "lodging or tenement house", "group home", "group residence", and "group living arrangement", to read as follows: "Lodging or tenement house", "group home", "group residence", [or] "group living arrangement", or "rooming house" means any building or portion thereof containing no more than nine rooming units, in which space is let by the owner or operator to three or more unrelated persons."

SECTION 3. Chapter 445, Hawaii Revised Statutes, is amended by adding seven new sections to be appropriately designated and to read as follows:

"§445- Unfair or deceptive practices prohibited. (a) No person shall engage in this State in any act or practice which is prohibited in section 445- or which is defined in that section as, or determined under that section to be, an unfair or deceptive act or practice in the rooming house business.

(b) Any facility owned or used by a government agency or by a non-profit agency which is registered with the department of commerce and consumer affairs and providing services by contract for a government agency, shall be exempt from this section.

(c) The department of human services shall enforce the provisions of this section and shall refer to other state and county agencies any violations enforced by those other governmental agencies.

§445- Unfair and deceptive practices defined. The following are defined as unfair or deceptive practices in the rooming house business:

- (1) Requiring, seeking, or encouraging any resident or prospective resident to execute a power of attorney in which the resident or prospective resident names the rooming house, its owner, or any of its agents or employees as attorney-in-fact;
- (2) Making any representation that the rooming house offers medical care, rehabilitation, or therapeutic benefits of any type;
- (3) Negotiating public assistance checks payable to a resident;
- (4) Refusing to refund any deposit as provided in sections 521-44(c) and 521-66;
- (5) Refusing to give any resident a partial rent refund in accordance with section 521-66;
- (6) Encouraging, soliciting, or requiring any resident or prospective resident to consent to the release of information concerning the resident or prospective resident which is maintained by any government agency and otherwise confidential;
- (7) Encouraging, soliciting, or requiring a resident or prospective resident to:
 - (A) Turn over food stamps to the rooming house, its agents, or employees; or
 - (B) Permit authorization to purchase (ATP) food stamp cards to be negotiated by the rooming house, its agents, or employees;
- (8) Limiting, hindering, or restricting access of residents who are food stamp recipients to foodstuffs, food containers, refrigerators, or other food storage facilities;
- (9) Encouraging, soliciting, or requiring any resident or prospective resident to apply for or receive food stamps if the rooming house has meal service;
- (10) Accepting food stamps as payment for or in reduction of rent;
- (11) Charging different rents for similar accommodations based on the amount of a resident's public assistance benefits;
- (12) Encouraging, soliciting, or requiring any resident or prospective resident to have public assistance benefits mailed to the rooming house, its owner, or its agents or employees; and
- (13) Denying any prospective resident or evicting any resident from living accommodations solely on the basis of age or disability.

§445- Powers of the director. The director of the department of human services may examine and investigate the affairs of every person, partnership, corporation, or other organization engaged in the rooming house business in this State in order to determine whether any unfair or deceptive practice prohibited by section 445- has been committed.

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§445- Penalty. Any person, firm, company, association, or corporation committing any unfair or deceptive practice as defined in section 445- shall be fined \$500 for each violation.

§445- Suits by the state. The director of the department of human services, by and through the attorney general, may bring an action on behalf of the state to enjoin any violation of section 445-, to enjoin any person, partnership, corporation or other organization who has violated section 445- from continuing to engage in the rooming house business, to collect the penalties provided by section 445-, or to recover any damages sustained by any person injured by a violation of section 445-. In any such action, the State shall also be entitled to recover the costs of suit together with reasonable attorneys' fees.

§445- Suits by individuals. Any person injured by a violation of section 445- has a private right of action and may bring a civil action to recover three times the person's actual damages or \$1,000 for each violation, whichever sum is greater. Any person bringing such an action shall also be entitled to recover the person's costs together with reasonable attorneys' fees.

§445- Jurisdiction, venue. An action under section 445- or 445- shall be brought in the district court and division in which the rooming house is located."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

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

(Approved June 13, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 314

H.B. NO. 1222

A Bill for an Act Relating to Intoxicating Liquor.

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

SECTION 1. Part VIII of Chapter 281, Hawaii Revised Statutes, is repealed.

SECTION 2. This Act shall take effect upon its approval.

(Approved June 13, 1988.)

ACT 315

H.B. NO. 2352

A Bill for an Act Relating to Salvaged Motor Vehicles.

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

SECTION 1. Section 286-48, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) In the event the salvage vehicle is rebuilt so as to be capable of again operating on the highways of this State, the motor vehicle shall not be licensed for

such operation, nor shall the ownership thereof be transferred until there is submitted to the director of finance:

- (1) The prescribed bill of sale;
- (2) An appropriate application for registration of the rebuilt or restored motor vehicle along with the salvage certificate and a certificate of inspection signed by the registered or certified motor vehicle repair dealer [or the registered or certified motor vehicle mechanic] who is bonded as required by section 437B-26, and who rebuilt the vehicle, attesting that the original recognized vehicle manufacturer's established repair procedures or specifications and allowable tolerances for the particular model and year were utilized and adhered to; and
- (3) Any other document and fee required by the director of finance.

The counties may, by ordinance, establish the fee to be charged for the inspection of rebuilt motor vehicles."

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

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

(Approved June 13, 1988.)

ACT 316

H.B. NO. 2385

A Bill for an Act Relating to Teenage Health.

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

SECTION 1. The purpose of this Act is to establish a Teenage Health Program in the Department of Health.

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to part XIX to be appropriately designated and to read as follows:

"§321- Teenage health program. The department of health, in cooperation with the department of education, may establish a statewide teenage health program designed to enhance self-esteem, facilitate communication between students and their parents, incorporate ho'ōpono'pono techniques in group discussions, expand peer counseling efforts, and provide more counseling opportunities. In implementing this program, the department shall strive to respect and include the diverse needs and values of parents and teens served by the program."

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect on July 1, 1988.

(Approved June 13, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 317

ACT 317

H.B. NO. 2440

A Bill for an Act Relating to the Commission on the Year 2000.

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

SECTION 1. The commission on the year 2000 was created by Act 96, Session Laws of Hawaii, 1970 to:

- (1) Study the impact of technology and social change in Hawaii and promote a general awareness of it;
- (2) Assess the future of Hawaii and identify desired economic, political, cultural, social, and environmental state goals;
- (3) Recommend legislative and administrative actions to achieve these goals; and
- (4) Assist and coordinate activities of those groups concerned with the future of Hawaii.

Until it ceased operations in 1981, the commission successfully stimulated dialogue within the community and encouraged educators to challenge their students to formulate ideas for Hawaii's future.

From its earliest years the Commission worked with the department of planning and economic development (now the department of business and economic development) on the development of the Hawaii state general plan, by contributing to a depiction of the preferred futures for the State of Hawaii with due consideration for Hawaii's diverse cultures and values. The state general plan will guide Hawaii's future long-range development.

With the functions of the commission essentially being assumed by the newly established office of state planning which will address emerging issues and opportunities in Hawaii, the legislature finds it appropriate to repeal the law authorizing the commission on the year 2000.

SECTION 2. Chapter 221, Hawaii Revised Statutes, is repealed.

SECTION 3. All records, files, contracts, books, papers, documents, maps, and other such property heretofore made, used, acquired, or held by the commission on the year 2000 relating to the functions of the commission on the year 2000 shall be deposited with the department of accounting and general services in its public archives.

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

(Approved June 13, 1988.)

ACT 318

H.B. NO. 2483

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 as the Judiciary Supplemental Appropriations Act of 1988.

SECTION 2. This Act amends Act 375, Session Laws of Hawaii 1987.

SECTION 3. Section 3, Act 375, Session Laws of Hawaii 1987, is amended to read:

"SECTION 3. Appropriations. 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, 1987 and ending June 30, 1989. The total expenditures and the number of permanent established positions 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 1987-88	M O F	FISCAL YEAR 1988-89
The Judicial System						
1.	JUD101	- Courts of Appeal		59.00 *		[59.00 *] 61.00 *
	OPERATING		JUD JUD	3,010,025 A		[3,027,135 A] 3,019,971 A
2.	JUD111	- Circuit Courts		[329.50 *] 335.50 *		[330.00 *] 337.00 *
	OPERATING		JUD JUD	13,117,758 A		[13,686,560 A] 13,859,652 A 2,000,000 A
3.	JUD112	- Family Courts		294.50 *		[312.50 *] 325.50 *
	OPERATING		JUD JUD	12,179,077 A		[12,667,005 A] 13,474,759 A
4.	JUD121	- District Courts		[615.50 *] 610.50 *		[615.50 *] 608.50 *
	OPERATING		JUD JUD	15,403,154 A		[15,221,878 A] 15,386,487 A 53.00 *
			JUD	1,376,311 B		53.00 * 1,395,506 B
5.	JUD201	- Admin. Director Services		[123.00 *] 122.00 *		[124.00 *] 129.00 *
	OPERATING		JUD JUD	8,856,056 A		[8,837,085 A] 9,094,209 A
	INVESTMENT CAPITAL		JUD	1,000,000 C		2,000,000 A ^{1..}

SECTION 4. PART II, Act 375 Session Laws of Hawaii 1987, is amended:

(1) By adding a new section to read as follows:

"SECTION 13A. Provided that of the general fund appropriation for circuit courts (JUD 111), the sum of \$38,000 in fiscal year 1988-89 shall be used to lease court reporting equipment for the court reporters in the first, second, and third circuits."

(2) By adding a new section to read as follows:

"SECTION 13B. Provided that of the general fund appropriation for circuit courts (JUD 111), the sum of \$30,000 in fiscal year 1988-89 shall be used for the home detention program."

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(3) By adding a new section to read as follows:

“SECTION 13C. Provided that of the general fund appropriation for circuit courts (JUD 111), the sum of \$37,204 in fiscal year 1988-89 shall be for an exempt chief clerk in Hilo.”

(4) By amending Section 14 to read as follows:

“SECTION 14. Provided that of the general fund appropriation for family courts (JUD 112), the sum of \$2,596,786 in fiscal year 1987-88 and [\$2,382,257] ~~\$2,958,222~~ in fiscal year 1988-89 shall be used for purchases of services including the sum of \$80,000 in fiscal year 1988 to be allocated to the Waikiki Community Center for therapeutic mediation and the sum of \$575,563 in fiscal year 1988 for domestic violence programs statewide.”

(5) By adding a new section to read as follows:

“SECTION 14A. Provided that of the general fund appropriation for family courts (JUD 112), the sum of \$88,779 in fiscal year 1988-89 shall be used to fund one district family judge, one court clerk, one bailiff, and related expenses in the second circuit.”

(6) By adding a new section to read as follows:

“SECTION 14B. Provided that of the general fund appropriation for family courts (JUD 112), the sum of \$123,010 in fiscal year 1988-89 shall be used to fund one district family judge, two court clerks, one bailiff, and related expenses in the third circuit.”

(7) By adding a new section to read as follows:

“SECTION 14C. Provided that in the fiscal year 1988-89, the family court (JUD 112) shall develop a plan to efficiently utilize circuit court clerks in maintaining the operations of the family court; provided further that the judiciary shall submit their findings and recommendations to the legislature thirty days prior to the convening of the 1989 regular session.”

(8) By adding a new section to read as follows:

“SECTION 19A. Provided that of the general fund appropriation for district courts (JUD 121), the sum of \$37,000 in fiscal year 1988-89 shall be expended as follows: for fuel \$10,000, for materials and supplies \$8,000, for repairs and maintenance \$13,000 and for services on a fee (medical) \$46,000; provided further that \$37,000 shall not be available for transfer, and that any amounts not expended as provided in this section shall be lapsed into the general fund.”

(9) By adding a new section to read as follows:

“SECTION 19B. Provided that of the general fund appropriation for district courts (JUD 121), the sum of \$49,550 in fiscal year 1988-89 shall be used to fund other current expenses for the Lahaina district court.”

(10) By adding a new section to read as follows:

“SECTION 19C. Provided that of the general fund appropriation for district courts (JUD 121), the sum of \$13,596 in fiscal year 1988-89 shall be used to fund

a permanent process server position to be created in the office of the sheriff; provided further that the process server position shall be established without regard to chapter 76, Hawaii Revised Statutes.”

(11) By adding a new section to read as follows:

“SECTION 19D. Provided that of the authorized position count for family courts (JUD 112), three social worker positions shall be added to the adult probation division in the second circuit in fiscal year 1988-89.”

(12) By amending Section 20 to read as follows:

“SECTION 20. Provided that of the general fund appropriation for administrative director of services (JUD 201), the sum of \$351,492 in fiscal year 1988 and [\$372,029] \$409,429 in fiscal year 1989 shall be used for purchase of service including the sum of \$152,997 in fiscal year 1988 and \$158,434 in fiscal year 1989 to be allocated to the Neighborhood Justice Center; and the sum of \$100,220 in the fiscal year 1988 and \$110,571 in fiscal year 1989 for the protection and advocacy agency for guardianship services.”

(13) By adding a new section to read as follows:

“SECTION 20A. Provided that of the general fund appropriation for administrative director services (JUD 201), the sum of \$150,000 in fiscal year 1988-89 shall be used to provide funds for temporary hires in the program services office.”

(14) By adding a new section to read as follows:

“SECTION 23A. Provided that the judiciary shall submit to the legislature no later than twenty days prior to the convening of the 1989 regular session a report detailing:

- (1) the specific needs and the priorities of the information systems for the judiciary, including feasibility studies, plans, and costs for implementation of computer systems and software for the neighbor islands;
- (2) the status of improvements to the traffic violations information system and the Hawaii judicial information system;
- (3) the complete systems requirements plan for the family courts; and
- (4) the specific plans for implementation of the objectives of the strategic systems plans.”

(15) By adding a new section to read as follows:

“SECTION 23B. Provided that of the expenditures, management, and operations of the judiciary shall be subject to an audit by the legislative auditor; provided further that the audit shall include, but not be limited to, the operations and management of the:

1. Civil service process of the personnel office; and
2. The judiciary computer systems office.

Provided further that the legislative auditor shall report on findings and recommendations twenty days prior to the convening of the 1989 regular session.”

(16) By adding a new section to read as follows:

“SECTION 23C. Provided that the judiciary shall study the feasibility and efficiency of implementing a pool of permanent workers whose only function will

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be to provide back-up services (e.g. temporary support for personnel on vacation or temporary support to alleviate backlog problems) to judiciary programs; provided further that the judiciary shall report their findings and recommendations to the legislature twenty days prior to the convening of the 1989 regular session."

(17) By adding a new section to read as follows:

"SECTION 23D. Provided that the judiciary shall review the feasibility of consolidating the impaneling procedures of the petit jury and the grand jury; provided further that the judiciary shall report on its findings and recommendations twenty days prior to the convening of the 1989 regular session."

SECTION 5. PART III. Capital Improvement Projects, Section 24, Act 375, Session Laws of Hawaii 1987, is amended to read as follows:

"**SECTION 24. Capital improvement projects.** The sum of [\$1,000,000] \$5,000,000 appropriated or authorized in Part II of this Act for capital investment shall be expended for the projects listed below. Several related or similar projects may be combined into a single project, if such a combination is advantageous or convenient, for land acquisition, design, and construction purposes; provided 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 and are to be expended by the judiciary.

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
<u>The Judicial System</u> <u>JUD111 - Circuit Courts</u>					
1. 005	HILO JUDICIARY COMPLEX				
<u>DESIGN AND CONSTRUCTION OF THE HILO JUDICIARY COMPLEX.</u>					
	DESIGN				20
	CONSTRUCTION				1,980
	<u>TOTAL FUNDING</u>		JUD	A	<u>2,000 A</u>
<u>JUD201 - Admin. Director Services</u>					
1. 003	REMODELING AND UPGRADING JUDICIARY BUILDINGS, STATEWIDE				
<u>DESIGN, CONSTRUCTION AND FURNISHING OF EQUIPMENT TO REMODEL AND UPGRADE JUDICIARY BUILDINGS, STATEWIDE.</u>					
	DESIGN			70	
	CONSTRUCTION			800	
	EQUIPMENT			30	
	<u>TOTAL FUNDING</u>		JUD	900 C	C
2. 004	ADVANCE PLANNING JUDICIARY				
<u>ADVANCE PLANNING FOR STATEWIDE JUDICIARY FACILITIES PLANNING PROJECTS.</u>					
	PLANS			100	
	<u>TOTAL FUNDING</u>		JUD	100 C	C
3. 008	KOOLAUPOKO DISTRICT COURT, OAHU				

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
<u>DESIGN AND CONSTRUCTION OF THE KOOLAUPOKO DISTRICT COURT.</u>					
		<u>DESIGN</u>			<u>20</u>
		<u>CONSTRUCTION</u>			<u>1,980</u>
		<u>TOTAL FUNDING</u>		<u>JUD</u>	<u>A</u>
					<u>2,000 A</u>

SECTION 6. By adding a new section to read as follows:

"SECTION 25A. Provided that of the general fund appropriation for the judiciary, the sum of \$2,000,000 or as much thereof as necessary in fiscal year 1988-89 shall be provided for the design and construction of a Hilo judiciary complex to be situated on State lands adjacent to the existing Hilo judicial facilities."

SECTION 7. Any law to the contrary notwithstanding, the unencumbered balance of the appropriations under Act 169, session laws of Hawaii 1985, section 10, in the amount indicated is lapsed:

Item No.	Amount (MOF)
JUD 201-6	\$1,422,000 C

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

SECTION 9. Nothing in this Act shall affect the validity or continuing effectiveness of any provision of Act 375, Session Laws of Hawaii 1987, not repealed or modified by this Act.

SECTION 10. This Act shall take effect on July 1, 1988.

(Approved June 13, 1988.)

Note

1. So in original.

ACT 319

H.B. NO. 2499

A Bill for an Act Relating to Sales.

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

SECTION 1. Section 437-28, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The board may, after notice and hearing as provided in chapter 91, and subject to appeal to the circuit court of the circuit in which the board has jurisdiction under the procedure and rules prescribed from time to time by the laws of the State or the applicable rules of the courts pertaining to appeals to circuit

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courts, suspend, revoke, fine, or deny the renewal of any license, or prior to notice and hearing deny the issuance of any license if the board finds that the applicant or holder, or any officer, director, general manager, trustee, partner, or stockholder owning more than ten per cent interest of the applicant or holder:

- (1) Has intentionally made a false statement of a material fact in the application for a license or in any other statement required by this chapter or has obtained or attempted to obtain a license by fraud or misrepresentation;
- (2) Has failed to comply, observe, or adhere to any provision of this chapter or any other law relating to the sale, taxing, or licensing of motor vehicles or any rule or order made pursuant to this chapter;
- (3) Has committed a fraudulent act in selling, purchasing, or otherwise dealing in motor vehicles or has misrepresented the terms and conditions of a sale, purchase, or contract for sale or purchase of a motor vehicle or any interest therein including an option to purchase motor vehicles;
- (4) Has engaged in business under a past or present license issued pursuant to this chapter, in a manner as to cause injury to the public or to those with whom one is dealing;
- (5) Has failed to comply, observe, or adhere to any law in any other respect on account whereof the board may deem the applicant or holder to be an unfit or improper person to hold a license;
- (6) Has failed to meet or maintain the conditions and requirements necessary to qualify for the issuance of a license;
- (7) Is insolvent or has filed or is the subject of petition for bankruptcy, wage earner's plan, or financial reorganization plan; or has made or proposes to make an assignment for benefit of creditors;
- (8) In the case of an individual applicant or holder of a license, is not at least eighteen years of age; in the case of a partnership applicant or holder of a license, if any general or limited partner thereof is not at least eighteen years of age;
- (9) Has charged more than the legal rate of interest on the sale or purchase or attempted sale or purchase or in arranging the sale or purchase of a motor vehicle or any interest therein including an option to purchase;
- (10) Has violated any of the laws pertaining to false advertising or to credit sales in the offering, soliciting, selling, or purchasing, or arranging to sell or purchase a motor vehicle or any interest therein;
- (11) Has willfully failed or refused to perform any unequivocal and indisputable obligation under any written agreement involving the sale or purchase of a motor vehicle or any interest therein including an option to purchase;
- (12) Has been denied the issuance of a license under this chapter for substantial culpable cause or for having had a license issued under this chapter suspended, revoked, or the renewal thereof denied for substantial culpable cause;
- (13) Has entered or has attempted to enter or proposes to enter into any contract or agreement contrary to this chapter or any rule adopted thereunder;
- (14) Has been or is engaged or proposes to engage in the business of selling new motor vehicles as a dealer or auction without a proper franchise therefor;
- (15) Has at any time employed or utilized or attempted or proposed to employ or utilize any person not licensed under this chapter who is required to be so licensed;

- (16) Has entered or attempted to enter any one-payment contract, where the contract is required to be signed by the purchaser prior to removal of the motor vehicle for test driving from the seller's premises;
- (17) Being a salesperson or dealer:
 - (A) Has required a purchaser of motor vehicles as a condition of sale and delivery thereof to purchase special features, appliances, accessories, or equipment not desired or requested by the purchaser; provided that this prohibition shall not apply as to special features, appliances, accessories, or equipment which are ordinarily installed on the vehicle when received or acquired by the dealer;
 - (B) Has represented and sold as an unused motor vehicle any motor vehicle which has been operated as a demonstrator, leased, or U-drive motor vehicle;
 - (C) Has sold a new motor vehicle without providing or securing for the purchaser the standard factory new car warranty for the vehicle, unless the dealer or salesperson clearly notes in writing on the sales contract that the new motor vehicle is sold without the standard factory warranty; or
 - (D) Has sold a new motor vehicle covered by a standard factory warranty without informing the purchaser in writing that any repairs or other work necessary on any accessories which were not installed by the manufacturer of the vehicle may not be obtainable in a geographic location other than where the purchase occurred; provided that the notice required by this subsection shall conform to the plain language requirements of section 487A-1, regardless of the dollar amount of the transaction;
- [D)] (E) Has engaged in any improper business conduct;
- (18) Being an applicant or holder of a dealer's license:
 - (A) Has sold or proposed to sell new motor vehicles without providing for the maintenance of a reasonable inventory of parts for new vehicles or without providing and maintaining adequate repair facilities and personnel for new vehicles at either the main licensed premises or at any branch location;
 - (B) Has employed or proposed to employ any salesperson who is not duly licensed under this chapter; or
 - (C) Has sold or proposed to sell new motor vehicles without being franchised therefor;
- (19) Being an applicant or holder of an auction's license:
 - (A) Has employed or proposed to employ any auctioneer who is not licensed under this chapter; or
 - (B) Has sold or proposed to sell new motor vehicles without being franchised therefor;
- (20) Being an applicant for a salesperson's license:
 - (A) Does not intend to be employed as a salesperson for a licensed motor vehicle dealer;
 - (B) Does not intend to be employed as a salesperson as the principal occupation; or
 - (C) Intends to be employed as a salesperson for more than one dealer;
- (21) Being a motor vehicle auctioneer, does not intend to be employed as such by a licensed auction under this chapter; or
- (22) Being a manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative:

- (A) Has attempted to coerce or has coerced any dealer in this State to enter into any agreement with such manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative, or any other party, to perform any act not required by or to refrain from performing any act not contrary to the reasonable requirements of the franchise agreement with the dealer, by threatening to cancel the franchise agreement or by threatening to refuse, at the expiration of the current franchise agreement, to enter a new franchise agreement with the dealer;
- (B) Has attempted to coerce or coerced any dealer in this State to enter into any agreement with such manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative, or any other party, to perform any act not required by or to refrain from performing any act not contrary to the reasonable requirements of the franchise agreement with the dealer, by awarding or threatening to award a franchise to another person for the sale of the same make of any motor vehicle in the same sales area of responsibility covered by the existing franchise agreement of the dealer;
- (C) Has attempted to or has canceled or failed to renew the franchise agreement of any dealer in this State without good faith, as defined herein. Upon the cancellation or failure to renew the franchise agreement, the party canceling or failing to renew the franchise agreement shall, at the dealer's option, either compensate the dealer at the fair market going business value for the dealer's capital investment, which shall include but not be limited to the going business value of the business, goodwill, property, and improvement owned or leased by the dealer for the purpose of the franchise, inventory of parts, and motor vehicles possessed by the dealer in connection with the franchise, plus reasonable attorney's fees incurred in collecting compensation; provided that the investment shall have been made with reasonable and prudent judgment for the purpose of the franchise agreement; or compensate the dealer for damages including attorney's fees as aforesaid, resulting from the cancellation or failure to renew the franchise agreement. As used herein, "good faith" means the duty of each party to any franchise agreement fully to comply with that agreement, or to act in a fair and equitable manner towards each other;
- (D) Has delayed delivery of or refused to deliver without cause, any new motor vehicle to a dealer, franchised to sell the new motor vehicle, within a reasonable time after receipt of a written order for the vehicle from the dealer. The delivery to another dealer of a motor vehicle of the same model and similarly equipped as the vehicle ordered by a dealer who has not received delivery thereof, but who had placed the written order for the vehicle prior to the order of the dealer receiving the vehicle, shall be prima facie evidence of a delayed delivery of, or refusal to deliver, a new motor vehicle without cause. The nondelivery of a new motor vehicle to a dealer within sixty days after receipt of a written order for the vehicle from a dealer shall also be prima facie evidence of delayed delivery of, or refusal to deliver, a new motor vehicle without cause; provided that the delayed delivery of, or refusal to deliver, a motor vehicle shall be deemed

with cause if the manufacturer establishes that the delay or refusal to deliver is due to a shortage or curtailment of material, labor, transportation, utility service, labor or production difficulty, or other similar cause beyond the reasonable control of the manufacturer;

- (E) Has discriminated against any of their franchised dealers in this State by directly or indirectly charging the dealer more for a new motor vehicle or services, parts, or accessories or a higher rate of transportation for transporting the vehicle from the manufacturing or assembly plant to the dealer or any portion of the distance, than is charged to any other of their franchised dealers in other states for the same make, model, and year of a new motor vehicle or for the same services, parts, or accessories or for similar transportation for the vehicle during the same period. A manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative who provides or causes to be provided greater transportation benefits for a new motor vehicle as aforesaid to any of their franchised dealers in other states than is provided to any of their franchised dealers in this State for the same or lesser price or charge than that imposed upon the franchised dealer in this State during the same period is deemed to have so discriminated against the franchised dealer in this State. Evidence of similar discriminatory practice against franchised dealers in other states shall not constitute a defense to or justification of the commission of the discriminatory act against the franchised dealer in this State. The intent and purpose of this subparagraph is to eliminate inequitable pricing policies set by manufacturers, factory branches, factory representatives, distributors, distributor branches, or distributor representatives which result in higher prices of new motor vehicles to the consumer in this State. This subparagraph shall be liberally interpreted to effect its intent and purpose and in the application thereof, the substance and effect and not the form of the acts and transactions shall be primarily considered in determining whether a discriminatory act has been committed. Nothing contained in this subparagraph shall prohibit establishing delivered prices or destination charges to dealers in this State which reasonably reflect the seller's total transportation costs incurred in the manufacture or delivery of products to the dealers, including costs which are related to the geographical distances and modes of transportation involved in shipments to this State, or which meet those lower prices established by competitors;
- (F) Has required a dealer of new motor vehicles in this State as a condition of sale and delivery of new motor vehicles to purchase special features, appliances, accessories, or equipment not desired or requested by the dealer; provided that this prohibition shall not apply to special features, appliances, accessories, or equipment, except heaters, which are regularly installed on that particular model of new motor vehicles as "standard" equipment or to special features, appliances, accessories, or equipment which are an integral part of the new motor vehicles and cannot be removed therefrom without substantial expense; or

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- (G) Has failed to adequately and fairly compensate its dealers for labor, parts, and other expenses incurred by the dealer to perform under and comply with manufacturer's warranty agreements. In no event shall any manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative pay its dealers a labor rate per hour for warranty work that is less than that charged by the dealer to the retail customers of the dealer nor shall the rates be more than the retail rates. All claims made by dealers for compensation for delivery, preparation, and warranty work shall be paid within thirty days after approval and shall be approved or disapproved within thirty days after receipt. When any claim is disapproved, the dealer shall be notified in writing of the grounds for disapproval."

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

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

(Approved June 13, 1988.)

ACT 320

H.B. NO. 2519

A Bill for an Act Relating to Speech Pathologists and Audiologists.

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

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

"§26H-4 Repeal dates. (a) The following chapters are hereby repealed effective December 31, 1988:

- (1) Chapter 465 (Board of Psychology)
- [(2)] Chapter 468E (Board of Speech Pathology and Audiology)
- [(3)] [(2)] Chapter 468K (Travel Agencies)
- [(4)] [(3)] Chapter 373 (Commercial Employment Agencies)
- [(5)] [(4)] Chapter 442 (Board of Chiropractic Examiners)
- [(6)] [(5)] Chapter 448 (Board of Dental Examiners)
- [(7)] [(6)] Chapter 436E (Board of Acupuncture)
- (b) The following chapters are hereby repealed effective December 31, 1989:
- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448E (Board of Electricians and Plumbers)
- (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
- (4) Chapter 466 (Board of Public Accountancy)
- (5) Chapter 467 (Real Estate Commission)
- (6) Chapter 439 (Board of Cosmetology)
- (7) Chapter 454 (Mortgage Brokers and Solicitors)
- (8) Chapter 454D (Mortgage and Collection Servicing Agents)
- (c) The following chapters are hereby repealed effective December 31, 1990:
- (1) Chapter 447 (Dental Hygienists)
- (2) Chapter 453 (Board of Medical Examiners)

- (3) Chapter 457 (Board of Nursing)
- (4) Chapter 458 (Board of Dispensing Opticians)
- (5) Chapter 460J (Pest Control Board)
- (6) Chapter 462A (Pilotage)
- (7) Chapter 438 (Board of Barbers)
- (d) The following chapters are hereby repealed effective December 31, 1991:
 - (1) Chapter 448H (Elevator Mechanics Licensing Board)
 - (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
 - (3) Chapter 457B (Board of Examiners of Nursing Home Administrators)
 - (4) Chapter 460 (Board of Osteopathic Examiners)
 - (5) Chapter 461 (Board of Pharmacy)
 - (6) Chapter 461J (Board of Physical Therapy)
 - (7) Chapter 463E (Podiatry)
- (e) The following chapters are hereby repealed effective December 31, 1992:
 - (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
 - (2) Chapter 437B (Motor Vehicle Repair Industry Board)
 - (3) Chapter 440 (Boxing Commission)
- (f) The following chapters are hereby repealed effective December 31, 1993:
 - (1) Chapter 441 (Cemetery and Funeral Trusts)
 - (2) Chapter 443B (Collection Agencies)
 - (3) Chapter 452 (Board of Massage)
 - (4) Chapter 455 (Board of Examiners in Naturopathy)
 - (5) Chapter 459 (Board of Examiners in Optometry)
- (g) The following chapter is hereby repealed effective December 31, 1994:
 - (1) Chapter 468E (Speech Pathology and Audiology)
- [g] (h) The following chapters are hereby repealed effective December 31, 1997:
 - (1) Chapter 463 (Board of Private Detectives and Guards)
 - (2) Chapter 471 (Board of Veterinary Examiners)."

SECTION 2. Section 468E-1, Hawaii Revised Statutes, is amended to read as follows:

“[§468E-1][] Purpose. It is the policy and the purpose of this chapter to insure that [the highest quality of speech pathology and audiology services are available to the people of this State. The public health and welfare requires that persons offering speech pathology and audiology services be in fact qualified in such fields; that a public authority competent to assess and prescribe the qualifications of speech pathologists and audiologists be established and continued; that] only qualified persons be allowed to practice in the fields of speech pathology and audiology.”

SECTION 3. Section 468E-4, Hawaii Revised Statutes, is amended to read as follows:

“§468E-4 Persons and practices not affected. Nothing in this chapter shall be construed as preventing or restricting:

- (1) A physician or surgeon from engaging in the practice of medicine in this State; or
- (2) A licensed hearing aid dealer from engaging in the practices of fitting and selling hearing aids in this State; or
- (3) Any person licensed in this State by any other law from engaging in the profession or occupation for which the person is licensed; or

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- (4) Any person employed by any federal government agency [whose] as a speech pathologist [and/or] or audiologist from performing that person's duties as an employee of the agency if the person must qualify for employment under government certification or under civil service regulations [but only at those times when that person is carrying out the functions of such governmental employment.]; provided that this section is applicable only when the person is performing duties as a federal employee. However, such person [may], without obtaining a license under this chapter, may consult with or disseminate the person's research findings and other scientific information to speech pathologists and audiologists outside the jurisdiction of the organization by which the person is employed. Such person may additionally elect to be subject to this chapter; or
- (5) The activities and services of persons pursuing a course of study leading to a degree in speech pathology at a college or university, if such activities and services constitute a part of a supervised course of study and such person is designated "speech pathology intern," "speech pathology trainee," or by other such titles clearly indicating the training status appropriate to the person's level of training; or
- (6) The activities and services of a person pursuing a course of study leading to a degree in audiology at a college or university, if such activities and services constitute a part of a supervised course of study and such person is designated "audiology intern," "audiology trainee," or by any other such titles clearly indicating the training status appropriate to the person's level of training; or
- (7) The activities and services of a person fulfilling the clinical experience requirements or the clinical fellowship year leading to the [American Speech and Hearing Association] ASHA certificate of clinical competence; or
- (8) The performance of speech pathology or audiology services in this State by any person not a resident of this State who is not licensed under this chapter, if such services are performed for no more than five working days in any calendar year and in cooperation with a speech pathologist or audiologist licensed under this chapter, and if such person meets the qualifications and requirements for application for licensure described in [paragraphs (1) to (3) of] section 468E-5. However, a person not a resident of this State who is not licensed under this chapter, but who is licensed under the law of another state which has established licensure requirements at least equivalent to those established by section 468E-5, or who is the holder of the ASHA Certificate of Clinical Competence in Speech Pathology or Audiology or its equivalent, may offer speech pathology or audiology services in this State for no more than thirty working days in any calendar year, if such services are performed in cooperation with a speech pathologist or audiologist licensed under this chapter."

SECTION 4. Section 468E-5, Hawaii Revised Statutes, is amended to read as follows:

"Eligibility for licensure.¹ To be eligible for licensure by the board as a speech pathologist or audiologist, a person shall:

- (1) [Be of good moral character;

- (2) Possess at least a master's degree or its equivalent in the area of speech pathology or audiology, as the case may be, from an educational institution recognized by the board;
- [(3)] (2) Submit to the board evidence of eligibility for meeting the requirements of the American Speech and Hearing Association for the certificate of clinical competence in speech pathology and/or audiology; and
- [(4)] (3) Pass a written examination approved by the board."

SECTION 5. Section 468E-7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The board shall, in accordance with the provisions of chapter 91, adopt rules [and regulations] relating to professional conduct to effectuate the policy of this chapter, including but not limited to [regulations] rules which establish ethical standards of practice, and for other purposes, and may amend or repeal the same."

SECTION 6. Section 468E-8, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) [On and after January 1, 1975,] After December 31, 1988, no person shall engage in the practice of speech pathology or audiology unless the person is licensed in accordance with [the provisions of] this chapter or as otherwise provided in this chapter.

(b) All speech pathologists and audiologists employed by a [local] county or state government shall comply with the license requirements of this chapter by December 31, 1984; provided that [any]:

- (1) Any person engaged in the practice of speech pathology or audiology on or before October 1, 1981, as an employee of or under contract to a [local] county or state government agency shall be deemed in compliance with the licensure requirements without the necessity of [the written examination] holding an ASHA certificate and may continue to practice speech pathology or audiology, as the case may be, [after October 1, 1981, for the government agency] for as long as the person remains continuously employed [from such date by the] in any county or state government agency for that purpose; [provided further that the] and
- (2) The records of the board of speech pathology and audiology shall distinguish between those employees practicing speech pathology and audiology who are licensed in accordance with [the provisions of] this chapter, and those who are deemed to be in compliance with the licensure requirements in accordance with this subsection."

SECTION 7. Section 468E-9, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Any application shall be accompanied by the appropriate fee [prescribed by section 468E-15, which fee shall in no case be refunded]."

SECTION 8. Section 468E-11, Hawaii Revised Statutes, is amended to read as follows:

"[§468E-11] Waiver of examination or parts thereof. [(a)] The board shall waive the requirements of [paragraphs (2) through (4) of] section 468E-5 for

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applicants for licensure who, on the effective date of this chapter, are actually engaged in this State in the practice of speech pathology or audiology, upon proof of bona fide practice presented to the board in a manner prescribed by [regulations promulgated] rules adopted by the board.

[l(b) The board may waive the examination and grant licensure to any applicant who shall present proof of current licensure in another state, including the District of Columbia, or territory of the United States which maintains professional standards considered by the board to be equivalent to those set forth in this chapter.]'

SECTION 9. Section 468E-12, Hawaii Revised Statutes, is amended to read as follows:

"[[§468E-12]] **Issuance of license.** The board shall issue a license to any person who meets the requirements of this chapter and who pays to the board the initial license fee [prescribed in section 468E-15 of this chapter]."

SECTION 10. Section 468E-13, Hawaii Revised Statutes, is amended to read as follows:

"§468E-13 Disciplinary action. (a) The board may take disciplinary action against any licensee, including but not limited to revocation, suspension, fine, or a combination thereof, or refuse to issue or renew a license for any of the following causes:

- (1) Obtaining a license by means of fraud, misrepresentation, or concealment of material facts;
- (2) Professional misconduct or unethical conduct;
- (3) Conduct constituting fraudulent or dishonest dealings;
- (4) Violating any provision of this chapter or rules adopted [pursuant thereto;] thereunder;
- (5) Failure to comply with a board order; or
- (6) Making a false statement on any document submitted or required to be filed by this chapter.

(b) Any person who violates this chapter or the rules adopted [pursuant thereto] thereunder shall be fined not more than \$1,000 and each day a violation exists, failure to comply with this chapter shall constitute a separate violation."

SECTION 11. Section 468E-14, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Every person licensed under this chapter [shall], on or before December 31, 1975, and each odd-numbered year thereafter, shall pay a fee for renewal of the person's license to the board. The board may, in the event payment of the renewal fee is rendered after December 31 of any odd-numbered year, renew a license upon payment of the renewal of license fee plus a monthly late renewal payment penalty, which penalty shall [equal the amount prescribed by the board according to the authority vested in it by section 468E-15 of this chapter], be multiplied by the number of full months which have elapsed since expiration of the license. No person who requests renewal of license, whose license has expired, shall be required to submit to examination as a condition to renewal, if such renewal application is made within two years from the date of such expiration."

SECTION 12. Section 468E-15, Hawaii Revised Statutes, is amended to read as follows:

"§468E-15 Fees. (a) The director of commerce and consumer affairs shall prescribe fees by rules adopted [pursuant to] under chapter 91 for the following purposes:

- (1) Application for license;
- (2) Initial licensing;
- (3) Renewal of licensing; and
- (4) Late renewal payment monthly penalty.

(b) Every person to whom a license is issued [pursuant to] under this chapter [shall], as a condition precedent to its issuance, and in addition to any [application, examination, or] other fee, shall pay the prescribed initial license fee. The board may, by [regulation,] rule, provide for the waiver of all or part of such fee where the license is issued less than one hundred twenty days before the date on which it will expire.

(c) All fees received by the board and moneys collected under this chapter shall be deposited by the director of commerce and consumer affairs with the director of finance to the credit of the general fund."

SECTION 13. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 14. This Act shall take effect upon its approval; provided that this Act shall not affect any rights or duties that matured, penalties that were incurred, or proceedings that were begun before its effective date.

(Approved June 13, 1988.)

Note

1. So in original.

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H.B. NO. 2523

A Bill for an Act Relating to Travel Agencies.

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

SECTION 1. Section 468K-1, Hawaii Revised Statutes, is amended by adding three new definitions to be appropriately inserted and to read as follows:

"Airline award" means any coupon, certificate, voucher, benefit, or tangible thing which is promised, given, sold, or otherwise transferred by an airline to a consumer in exchange for mileage, credits, bonuses, segments, or other units of value credited to the consumer as an incentive to fly on the airline.

"Person aggrieved" means a person who has sustained damages as a result of the act, omission, representation, transaction, or conduct of a licensee.

"Travel services" includes transportation by air, sea, or rail, ground transportation, hotel accommodations, or package tours, whether offered or sold on a wholesale or retail basis."

SECTION 2. Section 468K-1, Hawaii Revised Statutes, is amended by amending the definition of "sales representative" to read:

"Sales representative" means any employee or agent of a travel agency who arranges for the purchase or sale of travel services but does not include a salaried employee of a [registered] licensed travel agency[.] who does not receive a commission for arranging the purchase or sale of travel services."

SECTION 3. Section 468K-1.5, Hawaii Revised Statutes, is amended to read as follows:

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"[[§468K-1.5]] Powers and duties of the director. The director shall have the following powers and duties:

- (1) Adopt, amend, and repeal rules in accordance with chapter 91 to carry out the purposes of this chapter;
- (2) Issue, renew, terminate, and revoke [registrations;] licenses;
- (3) Establish fees; and
- (4) Do all things necessary to carry out the functions, powers, and duties set forth in this chapter."

SECTION 4. Section 468K-2, Hawaii Revised Statutes, is amended to read as follows:

"§468K-2 [Registration] License required. Travel agencies and sales representatives shall [register with] obtain a license from the director prior to engaging in the business of selling travel services."

SECTION 5. Section 468K-2.5, Hawaii Revised Statutes, is amended to read as follows:

"[[§468K-2.5]] [Registration] License renewal. [Every travel agency and sales representative registered under this chapter] Each licensee shall [register] renew its license with the director and pay a renewal fee, as provided in rules adopted by the director in accordance with chapter 91, on or before December 31 of each odd-numbered year. Failure to pay the renewal fee as required by this section shall constitute a termination of [registration] the license as of the date the renewal fee is due. Any [registration] license terminated under this section may be restored within one year after the date of termination upon the filing of an application and payment of a restoration fee as provided in rules adopted by the director in accordance with chapter 91."

SECTION 6. Section 468K-3, Hawaii Revised Statutes, is amended to read as follows:

"§468K-3 Travel agency recovery fund; use of fund; fees. There shall be established and maintained a travel agency recovery fund from which any person aggrieved by an act, omission of material fact, representation, transaction, or conduct of a [registered travel agency or registered sales representative,] licensee, that is in violation of this chapter or rules, or which constitutes an unfair or deceptive act or practice in violation of section 480-2, may recover, by order of the circuit court or district court of the county where the violation occurred, an amount of not more than \$8,000 for damages sustained as a result of the act, representation, transaction, or conduct[.] of each licensee. Recovery from the fund shall be limited to the actual damages suffered by the claimant, including court costs and fees as set by law, and reasonable attorney fees as determined by the court.

The director shall appoint three trustees, all of whom shall be [registered] licensed under this chapter, to maintain the travel agency recovery fund. The terms of the trustees shall be four years, provided that the terms of the initial trustees shall be two, three and four years respectively. The director may remove any trustee for good cause.

[For purposes of this chapter, "person aggrieved" means and is limited to individuals who have sustained damages as a result of the act, representation, transaction, or conduct of a duly registered travel agency or registered sales representative.]

Every travel agency shall pay at the time of original [registration] licensure a nonrefundable fee of \$50 for deposit in the travel agency recovery fund.

Every sales representative shall pay at the time of original [registration] licensure a nonrefundable fee of \$25 for deposit in the travel agency recovery fund."

SECTION 7. Section 468K-5, Hawaii Revised Statutes, is amended to read as follows:

"§468K-5 Statute of limitations; recovery from fund. (a) No action for a judgment or proceeding for a consent judgment under section 480-22 which may subsequently result in an order for collection from the travel agency recovery fund shall be commenced later than six years from the accrual of the cause of action.

(b) When any person aggrieved commences action for a judgment which may result in collection from the travel agency recovery fund, the person aggrieved shall notify the trustees in writing to this effect at the time of the commencement of the action. The trustees shall have the right to intervene in and defend any action.

(c) When any person aggrieved recovers a valid judgment in any circuit court or district court of the county where the violation occurred against any [travel agency or sales representative] licensee for any act, omission of a material fact, representation, transaction, or conduct which is in violation of this chapter or its adopted rules, or which constitutes an unfair or deceptive act or practice in violation of section 480-2, which occurred after January 1, 1981, the person aggrieved may, upon the termination of all proceedings, including reviews and appeals in connection with the judgment, file a verified claim in the court in which the judgment was entered and, upon ten days' written notice to the trustees, may apply to the court for an order directing payment out of the travel agency recovery fund, of the amount unpaid upon the judgment, subject to the limitations stated in this section.

(d) When the office of consumer protection obtains a consent judgment pursuant to section 480-22, in any circuit court where the violation occurred, against any [travel agency or sales representative] licensee for any act, omission of a material fact, representation, transaction, or conduct which is in violation of this chapter or its adopted rules, or which constitutes an unfair or deceptive act or practice in violation of section 480-2, which occurred after January 1, 1981, the office of consumer protection upon the finality of the consent judgment under section 480-22, may file a verified claim in the court in which the consent judgment was entered and, upon ten days' written notice to the trustees, may apply to the court for an order directing payment out of the travel agency recovery fund, of the amount unpaid upon the consent judgment, subject to the limitations stated in this section. The trustees shall have the right to intervene in and defend any application to the court for an order directing payment out of the travel agency recovery fund.

(e) The court shall proceed upon the application for an order directing payment out of the travel agency recovery fund in a summary manner, and, upon the hearing of the application, the person aggrieved shall be required to show:

- (1) He or she is not a spouse of the judgment debtor, or the personal representative of the judgment debtor's spouse;
- (2) He or she has complied with all the requirements of this section;
- (3) He or she has obtained a judgment as set out in subsections (c), (d), or (g), stating the amount of the judgment and the amount owing on the judgment at the date of the application;
- (4) He or she has made all reasonable searches and inquiries to ascertain whether the judgment debtor is possessed of real or personal property or other assets, liable to be sold or applied in satisfaction of the judgment; and

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(5) That by the search required by this section, he or she has discovered no personal or real property or other assets liable to be sold or applied, or that he or she has discovered certain of them, describing them, owned by the judgment debtor and liable to be so applied, and that he or she has taken all necessary action and proceedings for the realization thereof, and that the amount thereby realized was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due on the judgment after application of the amount realized.

(f) The court shall make an order directed to the trustees requiring payment from the travel agency recovery fund of whatever sum it shall find to be payable upon the claim, pursuant to the provisions of and in accordance with the limitations contained in this section, if the court is satisfied, upon the hearing of the truth of all matters required to be shown by the person aggrieved by subsection (e), that the person aggrieved has fully pursued and exhausted all remedies available to the person aggrieved for recovering the amount awarded by the judgment of the court. Upon a showing that the licensee is a debtor under the United States Bankruptcy Code, (11 U.S.C. §101, et seq.) as amended the person aggrieved shall have complied with the requirements stated in subsection (e), paragraphs (4) and (5), and shall be deemed to have fully pursued and exhausted all remedies available to the person aggrieved for recovering the amount which may be awarded by the court.

(g) For purposes of this chapter, an order for restitution obtained by the office of consumer protection on behalf of a person aggrieved against a [registered travel agency or registered sales representative] licensee shall be the judgment obtained by the person aggrieved against the [registered travel agency or registered sales representative.] licensee. For purposes of this chapter, any written notification to the trustees as required by subsection (b) by the office of consumer protection or any acts to recover restitution on behalf of the person aggrieved by the office of consumer protection shall be the acts of the person aggrieved.

(h) Subject to the limitations and requirements of this chapter, the office of consumer protection may apply to the court for an order directing payment out of the travel agency recovery fund on behalf of a person aggrieved; provided that the office of consumer protection obtains a court order directing the payment of restitution to the person aggrieved. The office of consumer protection shall not receive costs or attorney fees from the travel agency recovery fund.

(i) Upon the filing of an order for payment from the travel agency recovery fund to the office of consumer protection, or to any person aggrieved, which is based upon a consent judgment obtained by the office of consumer protection pursuant to section 480-22, the trustees may defer payment from the fund for six months, at the end of which period the trustees may discharge the trustees' obligations under the order and any other order for payment from the fund obtained by any person aggrieved prior to and at any time during the six-month period, by disbursing the money from the fund, up to the maximum allowed under this chapter, to all of the persons aggrieved, including those persons aggrieved in whose behalf the office of consumer protection obtained its order, on a pro rata basis; provided that prior to the disbursement of the money, the trustees file an affidavit with the court stating how the money is to be disbursed. The trustees may apply to the court for an extension of the six-month period upon good cause, but in no case shall payment to the office of consumer protection or any person aggrieved be deferred for more than one year except as provided in subsection (k).

(j) Should the trustees pay from the travel agency recovery fund any amount in settlement of a claim or toward satisfaction of a judgment against a [registered travel agency or sales representative, registration] licensee, the license shall be automatically terminated upon the issuance of a court order authorizing payment from the travel agency recovery fund. The [travel agency or sales representative]

former licensee shall not be eligible to [reregister to do business] obtain a new license until the fund is repaid in full, plus interest at the rate of ten per cent a year, the amount paid from the travel agency recovery fund on the account of the [travel agency or sales representative.] former licensee. A discharge in bankruptcy shall not relieve a person from the penalties and disabilities provided in this subsection.

(k) If, at any time, the money deposited in the travel agency recovery fund is insufficient to satisfy any duly authorized claim or portion thereof, the trustees shall, when sufficient money has been deposited in the travel agency recovery fund, satisfy the unpaid claims or portions thereof, in the order that the claims or portions thereof were originally filed or in accordance with subsection (i)."

SECTION 8. Section 468K-12, Hawaii Revised Statutes, is amended to read as follows:

"§468K-12 Disciplinary action against [registrant.] licensee. Nothing contained herein shall limit the authority of the director to take disciplinary action against any person for a violation of this chapter[,] or of its adopted rules; nor shall the repayment in full of all obligations to the travel agency recovery fund by any travel agency or sales representative nullify or modify the effect of any other disciplinary proceeding brought pursuant to this chapter or its adopted rules."

SECTION 9. Section 468K-14, Hawaii Revised Statutes, is amended to read as follows:

"§468K-14 Restitution. Any person who engages in an [unlawful] act or practice which violates any provision of this chapter or rules [promulgated] adopted pursuant thereto may be ordered by a court of proper jurisdiction to make restitution to all [individual consumers] persons injured by the act or practice."

SECTION 10. Section 468K-15, Hawaii Revised Statutes, is amended to read as follows:

"§468K-15 Penalties. Any person who engages in an [unlawful] act or practice which violates any provision of this chapter or rules [promulgated] adopted pursuant thereto shall be fined a sum of not less than \$500 nor more than \$2,500 for each [unlawful] act or practice, which sum shall be collected in a civil suit brought by the office of consumer protection."

SECTION 11. Chapter 468K, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§468K- Advertisements. Each travel agency and sales representative shall state in each of its advertisements its name and license number. For the purpose of this section, "advertisement" includes, but is not limited to, any written or graphic representation in any card, brochure, newspaper, magazine, directory listing, or display if the listing or display is obtained in exchange for valuable consideration, or any oral, written, or graphic representation made by radio, television, or cable broadcast."

SECTION 12. Chapter 468K, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§468K- Disclosures. (a) Each travel agency and sales representative shall disclose to a person purchasing travel services all restrictions, limitations,

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conditions, and fee assessments which pertain to the person's right to cancel, obtain a refund, change itinerary or make a claim for lost tickets.

(b) In the event an airline award is purchased, the following disclosure shall be made in a sales contract, in bold face print, no less than brevier or eight point type, and in a manner reasonably calculated to draw the attention of the reader:

THIS CONTRACT IS FOR THE SALE OF AN AIRLINE AWARD. CERTAIN AIRLINES HAVE TAKEN THE POSITION THAT THEY MAY VOID AIRLINE AWARDS AT THEIR DISCRETION, AT ANY TIME. IF ANY SUCH VOIDING OCCURS, (name of travel agency) WILL REFUND TO PURCHASER THE PROPORTIONATE AMOUNT OF PRICE PAID WITHIN THIRTY (30) DAYS."

SECTION 13. Chapter 468K, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§468K- Revocation or suspension of license. The director may revoke any license issued under this chapter or suspend the right of a travel agency or sales representative to use the license for violations of this chapter or its adopted rules, including:

- (1) Making any statement, either orally or in writing, in connection with a sale or offer to sell travel services which has the tendency or capacity to mislead or deceive;
- (2) Omitting any material fact in connection with a sale or offer to sell travel services;
- (3) Failing to perform any term or condition of a contract for travel services, whether the term or condition was made in writing or orally by the travel agency or sales representative;
- (4) Failing to make a refund in a timely manner to a person with whom the travel agency or sales representative has contracted for travel services; provided that all refunds shall be made within thirty days from the day (A) the refund is requested in writing, or (B) the travel agency or sales representative has recovered the amount to be refunded or has obtained appropriate credits from the ultimate provider of travel service transportation carrier, or other source not including travel service wholesaler, whichever is later; provided further that the travel agency or sales representative shall exercise reasonable diligence in recovering or obtaining the amounts or credits;
- (5) Acting in participation or concert with any person who violates this chapter or its adopted rules;
- (6) Making any statement that a travel agency or sales representative is recommended, endorsed, or approved by the department; provided that a licensee may state that it is licensed by the department;
- (7) Committing any other conduct in connection with a sale or offer to sell travel services which constitutes fraudulent or dishonest dealings; and
- (8) Violating section 480-2 in connection with a sale or offer to sell travel services."

SECTION 14. Chapter 468K, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§468K- Hearings. In every case where it is proposed to revoke or suspend a license or where a license application has been denied, the director shall give the person concerned an opportunity for a hearing in conformity with chapter 91 and the rules adopted thereto.

In all such proceedings, the director shall have the same powers respecting administering oaths, compelling the attendance of witnesses and production of documentary evidence, and examining witnesses, as are possessed by circuit courts. In cases of disobedience by any person of any order of the director, or of any subpoena issued by the director, or the refusal of any witness to testify to any matter regarding which the witness may be questioned lawfully, any circuit judge, on application by the director, shall compel obedience as in the case of disobedience of the requirements of a subpoena issued by a circuit court, or a refusal to testify therein.”

SECTION 15. Chapter 468K, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§468K- Other remedies. Nothing in this chapter shall be construed to limit any right of any person to filing an action in any court which may exist by virtue of any other statute, rule, practice, or common law.”

SECTION 16. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

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

(Approved June 13, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 322

H.B. NO. 2732

A Bill for an Act Relating to the Criminal Injuries Compensation Fund.

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

SECTION 1. Section 351-62.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Where the criminal injuries compensation commission has made an award pursuant to this chapter, the commission shall make such payments to or on behalf of the victim, or to or for the benefit of one or more of the dependents of a deceased victim, or to or for the benefit of other persons who have suffered pecuniary loss or incurred expenses on account of hospital, medical, funeral, or burial expenses as a result of the victim’s injury or death. Victims or dependents entitled to receive awards shall be notified of the option to have payments made on their behalf to other designated persons. Payments made pursuant to this section shall not exceed the total amount of the award.”

SECTION 2. New statutory material is underscored.

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

(Approved June 13, 1988.)

ACT 323

H.B. NO. 2851

A Bill for an Act Relating to Children.

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

SECTION 1. Chapter 350, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§350- Orientation and training. To improve the identification of child abuse and neglect, the department shall offer periodic orientation and training to those responsible for making child abuse and neglect reports pursuant to section 350-1.1.”

SECTION 2. Section 350-1.1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Notwithstanding any other state law concerning confidentiality to the contrary, the following persons who, in their professional or official capacity, have reason to believe that child abuse or neglect has occurred or that there exists a substantial risk that child abuse or neglect may occur in the reasonably [forseeable] foreseeable future, shall immediately report the matter orally to the department or to the police department:

- (1) Any licensed or registered professional of the healing arts and any health-related occupation who examines, attends, treats, or provides other professional or specialized services, including, but not limited to, physicians, including physicians in training, psychologists, dentists, nurses, osteopathic physicians and surgeons, optometrists, chiropractors, podiatrists, pharmacists, and other health-related professionals;
- (2) Employees or officers of any public or private school;
- (3) Employees or officers of any public or private agency or institution, or other individuals, providing social, medical, hospital, or mental health services, including financial assistance;
- (4) Employees or officers of any law enforcement agency, including, but not limited to, the courts, police departments, correctional institutions, and parole or probation offices;
- (5) Individual providers of child care, or employees or officers of any licensed or registered child care facility, foster home, or similar institution; [and]
- (6) Medical examiners or coroners[.]; and
- (7) Employees of any public or private agency providing recreational or sports activities.”

SECTION 3. The department of the attorney general shall develop a plan, including cost estimates, to perform criminal history record checks on those currently required to undergo criminal history record checks pursuant to section 346-154, Hawaii Revised Statutes, namely, applicants to operate a child care facility, prospective employees of the applicant, and new employees of the provider after registration or licensure. The plan shall also incorporate those operators, employees, and prospective employees providing direct services to children in programs provided by the State or contracted for by the State. The department of human services shall cooperate with the department of the attorney general in developing this plan. The plan shall be submitted to the legislature not later than twenty days prior to convening of the regular session of 1989.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$30,000, or so much thereof as may be necessary for fiscal

year 1988-1989, to carry out the purposes of section 1 of this Act. The sum appropriated shall be expended by the department of human services for the purposes of section 1 of this Act.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 6. This Act shall take effect on July 1, 1988.

(Approved June 13, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 324

H.B. NO. 2876

A Bill for an Act Making An Appropriation for a Hyperbaric Treatment Chamber System.

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 \$1,750,000, or so much thereof as may necessary for fiscal year 1988-1989, for the completion of a hyperbaric treatment chamber system and for the construction of a structure to house the hyperbaric treatment chamber system; provided that no sum shall be made available under this Act until all permits required for the completion of the chamber and the construction of the structure to house the chamber have been obtained.

SECTION 2. The sum appropriated shall be expended by the department of business and economic development for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 1988.

(Approved June 13, 1988.)

ACT 325

H.B. NO. 3068

A Bill for an Act Relating to Medical Peer Review.

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

SECTION 1. Section 663-1.7, Hawaii Revised Statutes, is amended as follows:

“§663-1.7 Professional society; peer review committee; hospital or clinic quality assurance committee; no liability; exceptions. (a) As used in this section, “professional society” or “society” means any association or other organization of persons engaged in the same profession or occupation, or a specialty within a profession or occupation, a primary purpose of which is to maintain the professional standards of the persons engaged in its profession or occupation or specialty practice; “peer review committee” means a committee created by a professional society, or by the medical or administrative staff of a licensed hospital or clinic, whose function

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is to maintain the professional standards established by the bylaws of the society, hospital, or clinic of the persons engaged in its profession or occupation, or area of specialty practice, or in its hospital or clinic; and "hospital or clinic quality assurance committee" means an interdisciplinary committee established by the board of trustees or administrative staff of a licensed hospital or clinic, whose function is to monitor and evaluate patient care, and to identify, study, and correct deficiencies and seek improvements in the patient care delivery process.

(b) There shall be no civil liability for any member of a peer review committee or hospital or clinic quality assurance committee, or for any person who files a complaint with or appears as a witness before such committees, for any acts done in the furtherance of the purpose for which the peer review committee or hospital or clinic quality assurance committee was established; provided that:

- (1) [The member was authorized to perform in the manner in which the member did; and] The member, witness, or complainant acted without malice; and
- (2) [The member acted without malice.] In the case of a member, the member was authorized to perform in the manner in which the member did."

(c) This section shall not be construed to confer immunity from liability upon any professional society, hospital, or clinic, nor shall it affect the immunity of any shareholder or officer of a professional corporation; provided there shall be no civil liability for any professional society or hospital or clinic in communicating any conclusions reached by one of its peer review committees or hospital or clinic quality assurance committees relating to the conformance with professional standards of any person engaged in the profession or occupation of which the membership of the communicating professional society consists, to a peer review committee or hospital or clinic quality assurance committee of another professional society or hospital or clinic whose membership is comprised of persons engaged in the same profession or occupation, or to a duly constituted governmental board or commission or authority having as one of its duties the licensing of persons engaged in that same profession or to a government agency charged with the responsibility for administering a program of medical assistance in which services are provided by private practitioners.

(d) The final peer review committee of a medical society, hospital, or clinic, or other health care facility shall report in writing every adverse decision made by it to the department of commerce and consumer affairs; provided that final peer review committee means that body whose actions are final with respect to a particular case; and provided further that in any case where there are levels of review nationally or internationally, the final peer review committee for the purposes of this subsection shall be the final committee in this State. The hospital or clinic quality assurance committee shall report in writing to the department of commerce and consumer affairs any information which identifies patient care by any person engaged in a profession or occupation which does not meet hospital or clinic standards and which results in disciplinary action unless such information is immediately transmitted to an established peer review committee. The report shall be filed within thirty business days following an adverse decision. The report shall contain information on the nature of the action, its date, the reasons for, and the circumstances surrounding the action; provided that specific patient identifiers shall be expunged. If a potential adverse decision was superseded by resignation or other voluntary action that was requested or bargained for in lieu of medical disciplinary action, the report shall so state. The department shall prescribe forms for the submission of reports required by this section. Failure to comply with this subsection shall be a violation punishable by a fine of not less than \$100 for each member of the committee.

(e) In any civil action arising under this section where a party seeks money damages or injunctive relief, or both, against another party, and the case is subsequently decided, the court may, as it deems just, assess against either party, and enter as part of its order, for which execution may issue, a reasonable sum for attorneys' fees, in an amount to be determined by the court upon a specific finding that the party's claim or defense was frivolous; provided the amount shall not exceed twenty-five per cent of any amount originally prayed for by the party assessed.

(f) In determining the award of attorneys' fees and the amounts to be awarded under subsection (e), the court must find in writing that all claims or defenses made by the party are frivolous and are not reasonably supported by the facts and the law in the civil action."

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

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

(Approved June 13, 1988.)

ACT 326

H.B. NO. 3150

A Bill for an Act Relating to County/State Hospitals.

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

SECTION 1. Chapter 27, Hawaii Revised Statutes, is amended by adding a new section to part III to be appropriately designated and to read as follows:

“§27- County/state hospitals; personnel recruitment and retention; powers of director. The director of health shall have the following powers relating to personnel recruitment and retention for the county/state hospitals:

- (1) To provide perquisites for shortage categories. Perquisites may include but shall not be limited to quarters and utilities;
- (2) To provide monetary incentives; provided:
 - (A) The monetary incentive shall be in an amount not to exceed one month's salary computed at the first step of the appropriate salary range, and the incentive may be paid in monthly installments over an agreed period of time;
 - (B) In the event the employment is terminated prior to an agreed upon period, the unpaid balance of the amount in subparagraph (A) shall be forfeited; and
 - (C) The monetary incentive shall not be used in the computation of cash payments for overtime work; and
- (3) To pay one-way travel and moving expenses to fill shortage categories. The powers granted under this section may be used to fill existing vacancies and retain existing incumbent personnel in the county/state hospitals.”

SECTION 2. Section 27-23, Hawaii Revised Statutes, is amended to read as follows:

“§27-23 Establishment of special [fund.] funds. (a) Any other law to the contrary notwithstanding, each public hospital and related public health and medical facility transferred to the State pursuant to this chapter shall place its revenues and all other moneys collected or acquired or made available for the use of [said] that

hospital into a special fund to be used for the payment of its lawful operating expenditures. At the beginning of each quarterly allotment period, the director of health shall assess from each hospital special fund an amount equal to two per cent of the moneys in the hospital special fund and shall deposit such amounts into the hospital administration fund established in subsection (b). At the end of each quarterly allotment period, the director of health shall transfer all moneys remaining in a hospital special fund not required for lawful operating expenditures of the hospital for that quarterly allotment period into the hospital administration fund established in subsection (b). The amounts the director of health is authorized to transfer shall include all unrequired special fund balances from prior years.

(b) There is established within the department of health a special fund to be known as the hospital administration fund which shall be used to defray the general administrative costs of the county/state hospitals division and to provide supplemental funds to those county/state hospitals that do not have sufficient moneys in their special funds to cover their required lawful operating expenditures, including contingencies for correcting hospital deficiencies cited by agencies which monitor and evaluate county/state hospitals. In the event the balance in the fund at the end of any fiscal year exceeds ten per cent of the expenditures of all the public hospitals for that fiscal year, the funds in excess of ten per cent of the expenditures shall be transferred by the director to the general fund. The director may also transfer funds from this fund to the general fund at any time pursuant to section 37-53.

(c) The director shall submit an annual report to the legislature, twenty days prior to the convening of each regular session, which identifies all fund balances and ceiling increases in the various hospital funds, the transfers and expenditures made from the funds, and the purposes of the expenditures."

SECTION 3. Section 37-34, Hawaii Revised Statutes, is amended to read as follows:

"§37-34 Appropriations available for allotment; estimate of expenses.

(a) No appropriation to which the allotment system is applicable shall become available to any department or establishment for expenditure during any allotment period until the department or establishment submits an estimate to the director of finance, at [such] whatever time prior to the beginning of the allotment period and in [such] whatever form as the director may prescribe [an estimate], of the amount required to carry on the work of the department or establishment during that period[,] and until the estimate is approved, increased, or decreased by the director and funds are allotted pursuant to section 37-35.

(b) Before appropriations for the University of Hawaii or the department of education become available to the university or the department of education, the governor, with the assistance of the director of finance, as may be necessary, shall establish allotment ceilings for each source of funding of all of the appropriations of the University of Hawaii and the department of education for each allotment period[.] and shall advise the university and the department of education of these determinations.

(c) No general fund appropriation for the operating expenses of county/state hospitals shall be made available to the county/state hospitals for expenditure during any allotment period unless the director of finance finds that the moneys in the special funds established under section 27-23 are insufficient to meet the required lawful operating expenditures of the county/state hospitals. The finding and decision of the director of finance on the sufficiency of special funds shall be communicated to the president of the senate and the speaker of the house of representatives at the end of each allotment period."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 5. This Act shall take effect on July 1, 1988.

(Approved June 13, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 327

H.B. NO. 3242

A Bill for an Act Relating to Public Assistance.

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

SECTION 1. Section 346-1, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read:

"Assistance allowance" means a single monthly public assistance grant, including funds received from the federal government, expressed in a dollar amount per recipient or per recipient family to be provided a recipient or recipient family for all usual recurring living and shelter expenses, including rent or mortgage payment and utilities, and excluding medical care."

2. By deleting the definition of "basic needs allowance":

["Basic needs allowance" means a single monthly public assistance grant, including funds received from the federal government, expressed in a dollar amount per recipient or per recipient family to be provided a recipient or recipient family for all usual recurring living expenses, excluding housing, utilities, and medical care."]

3. By deleting the definition of "shelter allowance":

["Shelter allowance" means a single monthly public assistance grant, including funds received from the federal government, expressed in a dollar amount per recipient or per recipient family to be provided a recipient or recipient family for all usual recurring shelter expenses, including rent or mortgage payments and utilities."]

SECTION 2. Section 346-53, Hawaii Revised Statutes, is amended to read as follows:

"§346-53 Determination of amount of assistance. [(a) The director shall adopt rules pursuant to chapter 91 concerning the determination of public assistance grants under this chapter. Public assistance grants shall be sufficient to maintain a standard consistent with this chapter. In granting public assistance to a person under this chapter the department may take into account part or all of the needs of the person's dependents or those persons essential to the person's well-being; provided that they are also eligible for public assistance. In the event that a public assistance grant to a recipient has taken into consideration only part of the needs of other eligible persons this public assistance grant shall be without prejudice to a separate public assistance grant to such other eligible persons or any of them, as may be proper to meet their remaining needs and in compliance with this chapter.]

(b) The maximum basic needs allowance which the department shall pay a recipient considering income and resources in accordance with this chapter shall be as provided in the following schedule:

- (1) \$134 for 1 person;
- (2) \$193 for 2 persons;
- (3) \$251 for 3 persons;
- (4) \$309 for 4 persons;
- (5) \$370 for 5 persons;
- (6) \$428 for 6 persons;
- (7) \$486 for 7 persons;
- (8) \$546 for 8 persons;
- (9) \$604 for 9 persons;
- (10) \$663 for 10 persons;
- (11) \$60 for each additional person.

Beginning January 1, 1978, and on or before January 1 of each odd-numbered year thereafter, the director shall submit a report to the legislature indicating the amount of additional moneys required to implement a cost of living increase for the adjusted basic needs allowance equal to the annual percentage increase, rounded to the nearest dollar:

- (1) In the average weekly wage in covered employment as computed by the director of labor and industrial relations pursuant to section 383-22, or
- (2) In the consumer price index for Hawaii as computed by the United States Department of Labor, whichever is lowest.

The director shall request that such amount be reflected in that portion of the executive budget relating to the department. If additional funds are appropriated for a cost of living adjustment, then the adjusted basic needs allowance shall be adjusted to reflect the appropriation. The department shall pay a recipient the maximum basic needs allowance if the department determines that the recipient's needs are not reduced by the recipient's income or resources.

(c) For recipients in nondomiciliary shelter, the shelter allowance (to include rent and utilities) shall be as follows:

- (1) \$193 for 1 person;
- (2) \$237 for 2 persons;
- (3) \$264 for 3 persons;
- (4) \$292 for 4 persons;
- (5) \$319 for 5 persons;
- (6) \$352 for 6 persons; or
- (7) \$396 for 7 or more persons.

(d) The director shall determine the amount of maximum shelter allowance for each recipient who is residing in a residential treatment facility. This amount shall be equal to the cost to each such facility for providing shelter to such recipient; provided that the amount shall not include any cost of such facility normally attributed to determining the basic needs allowance or for providing treatment and rehabilitation to the recipient. No maximum shelter allowance amount determined by the director shall exceed the amount under subsection (c). The director shall adopt the criteria for determining the maximum shelter allowance under this subsection by rule in accordance with chapter 91; provided that the actual amounts shall not be required to be adopted by rule.]

(a) The standard of need for families of given sizes shall equal the poverty level established by the federal government, pro-rated over a twelve-month period.

(b) The assistance allowance provided shall be based on a percentage of the standard of need. On July 1, 1988 the assistance allowance shall be set at sixty percent of the standard of need. Changes in the financial assistance standard of need and the assistance allowance shall become effective on July 1 of each year thereafter, subsequent to any change in the federal poverty level.

[(e)] (c) The director [shall], pursuant to chapter 91, shall determine the rate of payment for the different levels of domiciliary care provided to recipients eligible for Federal Supplemental Security Income or public assistance in accordance with state standards.

The rate of payment at which level a recipient enters an adult residential care home licensed pursuant to section 321-15.6 shall remain the same for as long as the recipient resides in that adult residential care home. The rate of payment may be raised if the recipient's condition so requires, or by rule of the department in accordance with this subsection; provided that notwithstanding the rate of payment at the time of entry, the department shall ensure that the recipient shall receive the quality of care consistent with the level of care as determined by the department; provided further that if the operator does not provide the quality of care consistent with the needs of the individual as determined by and to the satisfaction of the department, the department may reduce the rate of payment, or adjust the level of care, or remove the recipient to another facility. The department shall handle abusive practices under this section in accordance with chapter 91.

Nothing in this subsection shall allow the director to remove a recipient from an adult residential care home or other similar institution if the recipient does not desire to be removed and the operator thereof is agreeable to the recipient remaining therein, except where the recipient requires a higher level of care than provided thereby, or where the recipient no longer requires any domiciliary care.

[(f)] (d) The department shall pay rental and utility (to include gas, electricity, and water only) deposits once only for any person eligible for financial assistance by the department. However, under extraordinary circumstances as determined by the department, an additional rental deposit, utility deposit, or both, may be granted.

[(g)] (e) Any recipient may petition the department for additional assistance when the recipient's need is due to emergencies caused by seismic wave, tsunami, hurricane, volcanic eruption, typhoon, earthquake, flood, or fire determined by the director to have caused losses as to require and justify additional assistance from the State. In addition any recipient may petition the department for additional assistance for the replacement or repair of household appliances. Such additional assistance shall be paid on an emergency basis, as determined by the department, to meet the cost of replacing or repairing household appliances. If the cost of repairs of household appliances is less than one-half the unit cost of the item, the department shall pay for the cost of repairs. If the cost of repairs of household appliances is more than one-half the unit cost of the item, the department shall replace the household appliance; provided that the replacement cost shall not exceed \$350. For the purposes of this subsection "household appliances" means a refrigerator or a range.

The department shall establish an emergency fund, not to exceed one per cent of total financial assistance from state funds required by this chapter in the previous fiscal year. The director shall adopt rules pursuant to chapter 91 for determining in which cases to grant lump sum payments to recipients petitioning for additional assistance.

(f) The director shall adopt rules pursuant to chapter 91 to implement this section."

SECTION 3. Section 346-54, Hawaii Revised Statutes, is amended to read as follows:

"§346-54 Report to the legislature. On or before January 1 of odd-numbered years the director shall submit a report to the legislature concerning the adequacy of the [basic needs allowance and shelter allowance] assistance allowance established by this chapter.

In addition, should general fund expenditures for financial assistance and medical payment increase at a rate greater than the rate of increase in general fund tax revenues in any fiscal year, the director shall report such increases to the legislature and make cost control recommendations that will control increases in general fund public assistance expenditures. Cost control recommendations shall include, but not be limited to, the following: (1) changes in eligibility standards, (2) adjustments to the [basic needs allowance,] assistance allowance, [(3) adjustments to the shelter allowance, (4)] (3) alternatives to financial assistance for meeting [basic needs,] the needs essential to maintaining an adequate standard of living, and [(5)] (4) adjustments to medical payment fees and levels of service."

SECTION 4. Section 346-65 , Hawaii Revised Statutes, is amended to read as follows:

"§346-65[] Child abuse and neglect discretionary emergency assistance. (a) The department may grant funds to a family for child abuse and neglect discretionary emergency assistance in accordance with this section. The purpose of these grants is to assist children and families when an emergency situation arises or is imminent which may cause child abuse or neglect[,] or has caused children and families to need assistance from the department pursuant to chapter 587, and the financial assistance may prevent the abuse or neglect [or], prevent the removal of a child from a family[.], or would meet the immediate needs of a child who has been removed from a family.

(b) Emergency assistance shall be authorized when:

- (1) A situation arises or is imminent which presents an immediate or imminent threat of child abuse or neglect[,] or has caused children and families to need assistance from the department pursuant to chapter 587;
- (2) The family is eligible for public assistance or has no available financial resources;
- (3) Financial assistance may eliminate or alleviate the situation and remove the immediate or imminent threat of child abuse or neglect; and
- (4) No other financial resources are available from within the family or from other public or private source which could be used to eliminate or alleviate the situation.

(c) Emergency assistance may be used for shelter, respite child care, clothing, transportation, medical costs, utilities, food, repairs, essential equipment, and other goods or services which in the discretion of the department are necessary to eliminate or alleviate the emergency situation.

(d) A family shall not be granted more than [\$250] \$1,000 in emergency assistance during one fiscal year; except that under an exceptional situation as determined by the director, a family may be granted not more than [\$600] \$2,000 during one fiscal year.

(e) For the purposes of this chapter only, emergency assistance shall not be considered income to the head of household or family nor as part of the family's [basic needs allowance.] assistance allowance."

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$4,887,173, or so much thereof as may be necessary for fiscal year 1988-1989, to carry out the purposes of this Act; provided that of the sum appropriated, \$50,000 shall be expended for child abuse and neglect emergency assistance. 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. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval; provided that section 5 shall take effect on July 1, 1988.

(Approved June 13, 1988.)

ACT 328

H.B. NO. 3277

A Bill for an Act Relating to Variable Annuities.

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

SECTION 1. Chapter 485, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§485- Variable annuities; exemption. (a) Notwithstanding the requirements of section 485-14, no issuer, dealer, or salesman shall be required to be registered under this chapter in order to be qualified to sell variable annuities provided the following requirements are met:

- (1) The salesman is:
 - (A) Appointed by a general agent who is appointed by a life insurance company admitted to do life insurance and annuity business in this State;
 - (B) Properly licensed by the insurance commissioner to sell life insurance;
 - (C) Properly registered with the National Association of Securities Dealers, Inc. in a category of registration that authorizes the salesman to sell variable annuities; and
 - (D) Associated with a dealer that is a registered broker/dealer with the Securities and Exchange Commission and a member of the National Association of Securities Dealers, Inc.;
 - (2) The dealer is a registered broker/dealer with the Securities and Exchange Commission and a member of the National Association of Securities Dealers, Inc. authorized to sell only variable annuities and other insurance products, and must sell only through a salesman who satisfies the criteria of paragraph (1);
 - (3) The issuer is a life insurance company admitted to do life insurance and annuity business in this State; and
 - (4) The issuer and dealer are parent, subsidiary, or related companies through common ownership.
- (b) The exemption provided under the section shall be limited to the sale of variable annuities and other variable insurance products. The sale of any other security shall constitute a violation of this chapter. The commissioner retains full powers to inspect the records of any dealer pursuant to section 485-16.”

SECTION 2. New statutory material is underscored.¹

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

(Approved June 13, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Motor Vehicle Repairs.

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

SECTION 1. Section 437B,¹ Hawaii Revised Statutes, is amended to read as follows:

“§437B-1 Definitions. As used in this chapter:

“Board” means the motor vehicle repair industry board.

“Certified mechanic” is a motor vehicle mechanic who has successfully passed the certification tests in any or all of the certification specialties set forth in this chapter.

“Crash parts” means motor vehicle replacement parts, either sheet metal or plastic, which constitute the visible exterior of the vehicle, including inner and outer panels, and which are repaired or replaced as the result of a collision.

“Department” means the department of commerce and consumer affairs.

“Motor vehicle” means any passenger car, truck, truck tractor, motorcycle, or motor scooter, as defined in section 286-2.

“Motor vehicle mechanic” means any person whether self-employed or employed by another, who, for compensation, engages in the diagnosis or repair of malfunctions of motor vehicles, and may be classified as “intermediate” or “journeyman” as the terms are commonly used in the motor vehicle repair industry.

[“Motor vehicle mechanic apprentice/trainee” means any person who is a party to an apprenticeship/trainee agreement registered with the department of labor and industrial relations in accordance with chapter 372.]

“Motor vehicle mechanic helper” means any person who, for compensation, engages in the diagnosis or repair of malfunctions of motor vehicles under the supervision of a registered motor vehicle mechanic.

“Motor vehicle repair dealer” means any person who is, or has in the person’s employ, a motor vehicle mechanic registered under this chapter and who, for compensation, engages in the business of diagnosing or repairing malfunctions of motor vehicles.

[“Registered-certified mechanic” is a motor vehicle mechanic who has been registered and certified in accordance with this chapter.]

“Registered mechanic” is a motor vehicle mechanic who has registered in accordance with this chapter.

“Repair of motor vehicles” means all maintenance of and modifications and repairs to motor vehicles, including the rebuilding or restoring of rebuilt vehicles as defined in section 286-2, but excluding repairing tires, changing tires, lubricating vehicles, installing light bulbs, batteries, windshield wiper blades, and other minor accessories, cleaning, adjusting, and replacing spark plugs, replacing fan belts, oil, and air filters, and other minor services, which the board by rule determines may be performed by persons without the skills and knowledge required of motor vehicle mechanics and [apprentices] helpers. No service shall be designated as minor, for purposes of this section, if the board finds that performance of the service requires mechanical expertise, has given rise to a high incidence of fraud or deceptive practices, or involves a part of the vehicle essential to its safe operation.”

SECTION 2. Chapter 437B, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§437B- Motor vehicle mechanic helpers. It shall be unlawful for any motor vehicle mechanic to assist a motor vehicle repair dealer or motor

vehicle mechanic unless (1) helper works under the direct supervision of a registered or certified motor vehicle repair dealer or motor vehicle mechanic.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.²

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

(Approved June 13, 1988.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

ACT 330

H.B. NO. 3291

A Bill for an Act Relating to Insurance.

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

SECTION 1. The purpose of this Act is to ensure that certain amendments to existing insurance laws made by the Legislature in the 1987 Session are not repealed by virtue of the effective date of Act 347, Session Laws of Hawaii 1987, which renumbered and consolidated all insurance laws within three chapters. The amendments are set out in full in this Act to allow for proper codification by the Revisor of Statutes.

SECTION 2. Act 347, Session Laws of Hawaii 1987, is amended by amending Section 431:13-103 of Section 2 to read as follows:

“§431:13-103 Unfair methods of competition and unfair or deceptive acts or practices defined. (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 conspicuously 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, disseminating¹ 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, published, 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 contract of life insurance or of life annuity 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 term 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,
 - (ii) the refusal, cancellation or limitation is required by law or regulatory mandate; or
- (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; or
- (F) To terminate, or to modify coverage or to refuse to issue or refuse to 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 subsection shall not apply to disability insurance sold by a casualty insurer; provided further that this subsection 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[.]; or
- (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.
- (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 item (7) or item (8) shall be construed as including within the definition of discrimination or rebates any of the following practices:
- (A) In the case of any contract of life insurance or life annuity, 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 abatement of premiums shall be fair and equitable to policyholders and for 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.
 - (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) 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, or
- (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;
- [F)] (H) Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear;
- [G)] (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;
- [H)] (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;
- [I)] (K) Attempting to settle claims on the basis of an application which was altered without notice, or knowledge or consent of the insured;
- [J)] (L) Making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which the payments are being made;
- [K)] (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;
- [L)] (N) Delaying the investigation or payment of claims by requiring an insured, claimant, or the physician 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;
- [M)] (O) Failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage;
- [N)] (P) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable 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.
- (11) 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 shall mean any written communication primarily expressing a grievance.
- (12) 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, agent, broker, or individual.
- (b) The commissioner shall by certified mail notify the insurer's agent, as designated pursuant to section 431:2-205, of each complaint filed with the commissioner under this section.
- (c) Three or more written complaints received by the commissioner within any twelve-month period charging separate violations of this section shall constitute a rebuttable presumption of a general business practice.
- (d) Evidence as to numbers and types of complaints to the commissioner against an insurer, and the commissioner's complaint experience with other insurers writing similar lines of insurance, shall be admissible in an administrative or judicial proceeding brought under this section. No insurer shall be deemed in violation of this section solely by reason of the numbers and types of such complaints except if the presumption under subsection (c) is not rebutted.
- (e) If it is found, after notice and an opportunity to be heard, that an insurer has violated this section, each instance of noncompliance may be treated as a separate violation of this section for the purposes of section 431:2-203."

SECTION 3. Act 347, Session Laws of Hawaii 1987, is amended by amending Section 431:10D-202 of Section 2 to read as follows:

"§431:10D-202 Employee groups. (a) The lives of a group of individuals may be insured under a policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustee is deemed the policyholder, insuring employees of the employer for the benefit of persons other than the employer[, subject to the following requirements:]; provided that if the entire cost of the insurance has been borne by the employer and the employer uses the benefits for the purpose of purchasing employer securities distributed to employees from a pension, profit sharing, stock bonus, or employee stock ownership plan which has been qualified under Section 401 of the Internal Revenue Code, benefits may be made payable to the employer.

(b) Issuance of group life insurance policies shall be subject to the following requirements:

- (1) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term employees shall include:

- (A) The employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietorships, or partnerships if the business of the employer and of such affiliated corporations, proprietorships or partnerships is under common control;
- (B) The individual proprietor or partners if the employer is an individual proprietor or a partnership; and
- (C) Retired employees.

No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless the individual is actively engaged in and devotes a substantial part of the individual's time to the conduct of the business of the proprietorship or partnership.

- (2) The premium for the policy shall be paid either:
 - (A) Wholly from the employer's fund or funds contributed by him, or
 - (B) Partly from such funds and partly from funds contributed by the insured employees.

No policy may be issued on which the entire premium is to be derived from funds contributed by the insured employees. A policy on which part of the premium is to be derived from funds provided in accordance with item (2)(B) may be placed in force only if at least seventy-five percent of the then eligible employees, excluding any as to whom evidence of insurability is not satisfactory to the insurer, elect to make the required contributions. Except as provided in item (3), a policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, except those who reject such coverage in writing.

- (3) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.
- (4) The policy must cover at least ten employees at date of issue.
- (5) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the employer or trustees."

SECTION 4. Act 347, Session Laws of Hawaii 1987, is amended by amending Section 431:6-306 of Section 2 to read as follows:

"§431:6-306 Mortgage loans and contracts. An insurer may invest any of its funds in:

- (1) (A) Bonds or evidences of debt which are secured by first [mortgage] mortgages or [deed] deeds of trust on real property[,] located in the United States[,] or Guam which [meets] meet either of the following requirements:
 - (i) improved, unencumbered real property; or
 - (ii) unimproved, unencumbered real property, only where the real property is to be improved, and the bond or evidence of debt is secured by a first mortgage or deed of trust on the real property and the improvement to be made thereon.
- (B) Security interests in connection therewith pursuant to section 431:6-310;

- (C) The seller's equity in an agreement of sale in any such property, covering the entire balance due on a bona fide sale of such property, in amount not to exceed \$100,000 or the amount permissible under section 431:6-105, whichever is greater, in any one such agreement of sale, nor in any amount in excess of the following percentages of the actual sale price or fair value of the property, whichever is the smaller:
 - (i) if a dwelling primarily designed for single family occupancy and occupied by the purchaser under such contract, seventy-five percent.
 - (ii) in all other cases, sixty-six and two-thirds percent.
- (2) Purchase money mortgages or like securities received by it upon the sale or exchange of real property acquired pursuant to section 431:6-311.
- (3) Evidences of debt, secured by mortgage or trust deed guaranteed or insured by an agency of the United States.
- (4) Evidences of debt secured by first mortgages or deeds of trust upon leasehold estates, running for a term of not less than five years beyond the maturity of the loan as made or extended, in improved real property, otherwise unencumbered, and if the mortgagee is entitled to be subrogated to all the rights under the leasehold."

SECTION 5. Act 347, Session Laws of Hawaii 1987, is amended by amending Section 431:10C-501 of Section 2 to read as follows:

"§431:10C-501 Motorcycle or motor scooter excluded from article. (a)

All motorcycles and motor scooters required to be registered under chapter 286 shall be exempt from this article; provided that:

- (1) No person shall drive a motorcycle or motor scooter upon any public street, road or highway of this State at any time unless such vehicle is insured at all times under a liability insurance policy as provided in section 431:10C-503[.]; and
 - [2] In the case of accidental harm arising out of a motorcycle or motor scooter accident to any passenger of such motorcycle or motor scooter, or any pedestrian, motorcycles and motor scooters shall not be exempt from section 431:10C-301, section 431:10C-304 and section 431:10C-306;
 - (3) (2) In the case of accidental harm arising out of an accident involving a motorcycle or motor scooter and a motor vehicle, the owner or operator of a motorcycle or motor scooter shall not be exempt from section 431:10C-306.
- (b) Any person who violates this section shall be subject to citation by the police, and for each violation shall be subject to a non-suspendable fine of not less than \$100, or more than \$1,000, or thirty days imprisonment, or a one-year driver's license suspension or any combination thereof."

SECTION 6. Act 348, Session Laws of Hawaii 1987, is amended by amending Section 431:10C-503 of Section 18 to read as follows:

"§431:10C-503 Required motorcycles and motor scooters policy coverage. (a) An insurance policy covering a motorcycle or motor scooter shall provide

insurance to pay, on behalf of the owner or any operator of the insured vehicle, sums which the owner or any operator may legally be obligated to pay for injury, death or damage to the property of others, except property owned by, being trans-

ported by, or in the charge of the insured which arise out of the ownership, operation, maintenance, or use of the vehicle:

- (1) Liability coverage of not less than \$35,000 for all damages arising out of accidental harm sustained by any one person as a result of any one accident applicable to each person sustaining accidental harm; and
- (2) Liability coverage of not less than \$10,000 for all damages arising out of injury to or destruction of property including motor vehicles and including the loss of use thereof, but not including property owned by, being transported by, or in the charge of the insured, as a result of any one accident.
- (b) At the option of the owner, each insurer shall:
 - (1) Offer medical payment coverage up to \$15,000 to pay all reasonable expenses incurred within one year from the date of accident for necessary medical, surgical and dental services, and necessary ambulance, hospital, professional nursing, and funeral services; [and]
 - (2) Offer an income disability plan[.]; and
 - (3) Offer liability coverage in excess of the minimum coverages required by this section.”

SECTION 7. Act 347, Session Laws of Hawaii 1987, is amended by adding a new section to be designated Section 431:10C-504 and to read as follows:

“§431:10C-504 Prerequisites for obtaining coverage; reduction to premium charges. (a) Any person seeking to obtain the liability coverage required by this part after January 1, 1988 shall first:

- (1) Have obtained a valid motorcycle or motor scooter license; or
- (2) Have obtained a valid motorcycle or motor scooter learner's permit and have taken and passed a motorcycle education course approved by the department of transportation.
- (b) All insurers of any motorcycle or motor scooter shall provide a fifteen per cent reduction off premium charges each insurer assesses for each new and renewal policy for liability coverage issued pursuant to this part if the applicant has successfully completed a motorcycle education course approved by the department of transportation as provided in subsection (a).”

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.²

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

(Approved June 13, 1988.)

Notes

1. Prior to amendment, a comma appeared here.
2. Edited pursuant to HRS §23G-16.5.

ACT 331

H.B. NO. 3299

A Bill for an Act Making An Appropriation for a Study of the Deregulation of Certain Telecommunications Activities to Promote the Growth of the Telecommunications Industry in the State.

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 \$150,000, or so much thereof as may be necessary for fiscal

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year 1988-1989, for a feasibility study regarding the deregulation of private coin-operated telephones, telephone-shared tenant services, and interisland telephone service and for a study on the issue known in the telecommunications industry as "bypass".

SECTION 2. The sum appropriated shall be expended by the office of the legislative auditor for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 1988.

(Approved June 13, 1988.)

ACT 332

H.B. NO. 3416

A Bill for an Act Relating to Farm Loans.

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

SECTION 1. The legislature finds that agriculture is a vital component of the State's economic base, and that loans to qualified farmers who are suffering temporary setbacks is an appropriate activity for the State.

Further, the legislature finds that additional funding is needed for the agricultural loan revolving fund to enable the department of agriculture to carry out appropriate loan programs.

The purpose of this Act is to appropriate funds to the agricultural loan revolving fund of the department of agriculture to make loans to qualified farmers under the rules of the department.

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 1988-1989, to be paid into the agricultural loan revolving fund created under section 155-14, Hawaii Revised Statutes, to make loans to qualified farmers under the rules of the department.

SECTION 3. The sum appropriated shall be expended by the department of agriculture for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 1988.

(Approved June 13, 1988.)

ACT 333

H.B. NO. 3448

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. Section 514A-108, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) This part shall not apply to any project developed pursuant to section 46-15 or 46-15.1, or chapter 53, 206, [206E,] 356, 359, or 359G."

SECTION 2. Statutory material to be repealed is bracketed.

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

(Approved June 13, 1988.)

ACT 334

H.B. NO. 3464

A Bill for an Act Relating to Adult Residential Care Homes.

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

SECTION 1. Section 321-15.1, Hawaii Revised Statutes, is amended to read as follows:

“[§321-15.1] Definitions. Whenever used in this chapter, unless the context otherwise requires:

“Adult residential care home” means any facility providing twenty-four-hour living accommodations, for a fee, to adults unrelated to the family, who require at least minimal assistance in the activities of daily living, personal care services, protection, and health care services, but who do not need the professional health services [of] provided in an intermediate, skilled nursing, or acute care facility.”

SECTION 2. Section 321-15.6, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) The director shall adopt rules regarding adult residential care homes in accordance with chapter 91 which shall be designed to:

- (1) Protect the health, safety, and civil rights of persons residing in facilities regulated;
 - (2) Provide for the licensing of [facilities providing domiciliary care;] adult residential care homes; provided that the rules shall allow group living in two categories of [an] adult residential care homes as licensed by the department of health: type I allowing group living by five or fewer unrelated persons, and type II allowing six or more [of up to five] persons [,] including, but not limited to, the mentally ill, the elderly, the handicapped, the developmentally disabled, or the totally disabled persons who are not related to the home operator or facility staff. For purposes of this section, “mentally ill person” means a mentally ill person as defined under section 334-1; “elderly person” means an elderly person as defined under section 359-52; “handicapped person” means an individual with a physical handicap as defined under section 515-2; “developmentally disabled person” means a person [suffering from] with developmental disabilities as defined under section 333E-2; and “totally disabled person” means a person totally disabled as defined under section 235-1;
 - (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.
- (c) The department [shall] may provide for the training of and consultations to operators and staff of any facility licensed under this section, in conjunction with any licensing thereof, and shall adopt rules to ensure that adult residential care home operators shall have the needed skills to provide proper care and supervision

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in a home environment (i.e., first aid, cardiopulmonary resuscitation, and nutrition training as a minimum). [Such training shall be provided at the expense of the State.]'

SECTION 3. The Department shall provide training at state expense up to December 31, 1988 for all operators currently involved in the Department of Health training program.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 1988.

(Approved June 13, 1988.)

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H.B. NO. 3514

A Bill for an Act Relating to Liquor Tax.

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

SECTION 1. Section 244D-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Every person who sells or uses any liquor not taxable under this chapter, in respect of the transaction by which such person or the person's vendor acquired such liquor, shall pay [an excise] a gallonage tax which is hereby imposed at the following rates for the various liquor categories defined in section 244D-1:

- (1) \$5.20 per wine gallon on distilled spirits;
- (2) \$2.00 per wine gallon on sparkling wine;
- (3) \$1.30 per wine gallon on still wine;
- (4) \$.81 per wine gallon on cooler beverages;
- (5) \$.81 per wine gallon on beer other than draft beer;
- (6) \$.50 per wine gallon on draft beer;

and at a proportionate rate for any other quantity so sold or used."

SECTION 2. Section 244D-4.5, Hawaii Revised Statutes, is amended to read as follows:

"[§244D-4.5[]] Adjustment of tax rate. (a) After July 1, 1987, the tax rate for a given liquor category taxed in section 244D-4(a) shall be adjusted automatically on January 1 or July 1, as the case may be, in the following circumstances. If at the end of a six-month reporting period ending on March 31 [and] or September 30 the department finds that:

- (1) The:
 - (A) Total gallonage for a given liquor category has not declined over the same six-month reporting period; and
 - (B) Unit price for such liquor category over such six-month reporting period has increased over the corresponding unit price over the preceding six-month reporting period; or
- (2) The:
 - (A) Total gallonage for a given liquor category has not declined over the same six-month reporting period; and

- (B) Unit price for such liquor category over such six-month reporting period has decreased over the corresponding unit price over the preceding six-month reporting period;

then the tax rate, rounded to the nearest whole cent, for the liquor category or liquor categories shall increase or decrease, as appropriate, in the same percentage as the increase or decrease in unit price. Under no circumstances shall the tax rate for a liquor category be decreased below the tax rates established by section 244D-4(a).

The department shall make its determination [no] based upon information it receives from returns representing not less than ninety per cent of the estimated sales volume by wine gallonage by liquor categories required to be filed for the six-month reporting period not later than [ninety] one hundred-eighty days following the close of such six-month reporting period[.]. The department shall circulate the tax rate change to each permittee[,] and shall publish the tax rate change in a newspaper of general circulation in the State.

The tax rate increase or decrease, as appropriate, shall be effective on the January 1 or July 1 next following such determination.

(b) [After] On or after January 1, 1989, the tax rate for a given liquor category in each paragraph in section 244D-4(a) shall be adjusted automatically on January 1 or July 1, as the case may be, in the following circumstances. If at the end of a [fiscal] twelve-month reporting period ending on June 30 or [calendar year reporting period] a twelve-month reporting period ending on December 31 the department finds that:

- (1) The:
 - (A) Total gallonage for a given liquor category has not declined over the [same] preceding twelve-month reporting period; and
 - (B) Unit price for [such] the given liquor category over [such] a twelve-month reporting period [has increased over]¹ period is greater than the corresponding unit price for that liquor category over the preceding twelve-month reporting period; or
- (2) The:
 - (A) Total gallonage for a given liquor category has not declined over the [same] preceding twelve-month reporting period; and
 - (B) Unit price for [such] the given liquor category over [such] a twelve-month reporting period [has decreased over] is less than the corresponding unit price for that liquor category over the preceding twelve-month reporting period;

then the tax rate, rounded to the nearest whole cent, for the liquor category or liquor categories shall increase or decrease, as appropriate, in the same percentage as the increase or decrease in unit price. Under no circumstances shall the tax rate for a liquor category be decreased below the tax rates established by section 244D-4(a).

The department shall make its determination [no] based upon information it receives from returns representing not less than ninety per cent of the estimate sales volume by wine gallonage by liquor category required to be filed for the twelve-month reporting period not later than [ninety] one hundred-eighty days following the close of such twelve-month reporting period[.]. The department shall circulate the tax rate change to each permittee[,] and shall publish the tax rate change in a newspaper of general circulation in the State.

The tax rate increase or decrease, as appropriate, shall be effective on the January 1 or July 1 next following such determination.”

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

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

(Approved June 13, 1988.)

Note

1. So in original.

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H.B. NO. 3558

A Bill for an Act Relating to Claims Involving the State.

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

SECTION 1. Section 662-11, Hawaii Revised Statutes, is amended to read as follows:

“§662-11 Compromise. The attorney general, with the approval of the court, may arbitrate, compromise, or settle any claim cognizable under this chapter, after commencement of an action thereon; provided that the attorney general may arbitrate, compromise, or settle claims for [\$2,000] \$10,000 or less without the necessity of court approval or the commencement of an action. The attorney general shall prepare, for each fiscal year, a report of all claims arbitrated, compromised, or settled for [\$2,000] \$10,000 or less. The report shall be submitted to the legislature twenty days prior to the commencement of the regular session next succeeding the year for which the report is made.”

SECTION 2. This Act does not and shall not be construed to change the extent of the State's sovereign immunity.

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 1988-89 to carry out the purposes of this Act. The sum appropriated shall be expended by the department of attorney general.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 1988.

(Approved June 13, 1988.)

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S.B. NO. 3225

A Bill for an Act Relating to Protection of Lands.

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

SECTION 1. Chapter 183, Hawaii Revised Statutes, is amended by amending its title to read as follows:

**“FOREST [RESERVATIONS,] RESERVES,
WATER DEVELOPMENT, ZONING”**

SECTION 2. Section 183-13, Hawaii Revised Statutes, is amended to read as follows:

“§183-13 Hearing. At the time and place named, a full hearing shall be given by [the governor and] the department of land and natural resources, to all who desire to be heard upon the subject matter of the notice. The hearing shall be public, and shall be conducted under such rules [and regulations] as the [governor] department may [direct] adopt. [Any hearing may be continued, postponed or adjourned to such time or times, place or places as the governor may direct.]

SECTION 3. Section 183-19, Hawaii Revised Statutes, is amended to read as follows:

“§183-19 Exclusion of [stock] livestock from forest [reservations,] reserves, game management areas, [and] public hunting areas[;], and natural area reserves; notice. When branded wild cattle or horses are found on any forest land, game management area, [or] public hunting area, or natural area reserve in the State, which land is duly set apart and established as a forest [reservation,] reserve, game management area, [or] public hunting area, or natural area reserve, or if the land is privately owned and surrendered as defined in section 183-15, the department, in all cases where the land is so set apart and established as a forest [reservation,] reserve, game management area, [or] public hunting area, or natural area reserve, whether from privately owned lands or public lands, may remove, shoot, or destroy the cattle or horses without compensation to the owner, after thirty days' public notice and three insertions of the intended action [has] have been given by publication in a newspaper of general circulation in the county where the cattle or horses are found.”

SECTION 4. Section 183-20, Hawaii Revised Statutes, is amended to read as follows:

“§183-20 Disposition. The department may, at any time, without notice to the owners, remove any and all cattle or horses found on any forest [reservation] reserve, game management area, public hunting area, or natural area reserve and may hold and care for all such cattle or horses in some convenient place, at the expense of the owners, subject to the lien for charges and expenses as herein provided [for]. The owners of the cattle or horses shall pay to the department the actual expenses reasonably incurred, which shall include, but not be limited to, allowances for employees' wages, equipment cost, transportation cost, feeding cost, cost of advertising notice, and other costs related to the catching, driving, and transportation of animals. After the cattle or horses have been removed and held [as aforesaid], the owners shall be notified personally of this fact, if the owners be known, and shall be notified of the total amount of the charges and expenses to be paid for the release of the cattle or horses.

[The department shall also, in all cases, where] When the owners are unknown or cannot be found, [cause] the department shall publish a statement and notice [to be published] in a newspaper of general circulation [published] in the county in which the cattle or horses are held[, which]. The statement shall set forth the general description and the brands of all the cattle or horses so removed and held[, as aforesaid,] and shall notify the owners and the public generally that unless the charges and costs to be specified in the notice shall have been paid on or before the date therein specified, which date shall not be less than two weeks from the date of the last publication of the notice, the cattle or horses therein described [will] shall be sold at public auction for cash to the highest bidder for the purpose of satisfying the lien on the same for the costs and charges in the notice set forth. The notice shall be published once a week for four consecutive weeks (four insertions). If the charges and costs, together with such additional expenses as may have been

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incurred since the first publication of the notice, are not paid before the date stated in the notice, the cattle or horses shall on that date be sold[, as aforesaid] and all charges and other expenses shall be satisfied out of the proceeds of the sale and the balance paid to the owner or owners of the cattle or horses. If no claim is made for any balance within sixty days after the date of sale, the same shall be deposited in the treasury of the State as a government realization and all private rights therein and thereto shall be thereafter forever barred.”

SECTION 5. Section 183-21, Hawaii Revised Statutes is amended to read as follows:

“§183-21 Penalties. Any person who receives actual notice from the department [of land and natural resources] that one or more cattle or horses belonging to such person have been found to be and are [running] on any forest [reservation] reserve, game management area, public hunting area, or natural area reserve referred to in section 183-19, excepting in the case of the owner of the land, and who fails or neglects within ten days after the receipt of the notice to remove the cattle or horses from any [reservation,] area or reserve, or to shoot or destroy the cattle or horses, shall be fined \$10 for each animal belonging to the person thereafter found on any forest [reservation] reserve, game management area, public hunting area, or natural area reserve and proven to have been [running] thereon at the time of the service of the notice. If any cattle or horses [as to which notice has been served on the owner, after the expiration of the ten days' notice, shall not be removed and shall be found running] are still found on any forest [reservation,] reserve, game management area, public hunting area, or natural area reserve, more than ten days after the notice has been served on the owner regarding those same cattle or horses, the department may remove, shoot, or destroy the cattle or horses without compensation to the owner. All cattle or horses found [running] on any forest [reservation] reserve, game management area, public hunting area, or natural area reserve shall be deemed *prima facie* to be the property of the person whose brand if any they bear.”

SECTION 6. Sections 183-1.5, 183-11, 183-12, 183-14, 183-15, 183-16, 183-17, Hawaii Revised Statutes, are amended by substituting the words “reserve” and “reserves” for the words “reservation” and “reservations”.

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

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

(Approved June 13, 1988.)

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S.B. NO. 3226

A Bill for an Act Relating to the Land Fire Protection Law.

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

SECTION 1. Section 185-1, Hawaii Revised Statutes, is amended to read as follows:

“§185-1 Responsible agency. The department of land and natural resources shall take measures for the prevention, control, and extinguishment of forest fires

on state owned and private lands within the forest reserves [and], game management areas, public [shooting grounds] hunting areas, and natural area reserves of the State and shall cooperate with established fire control agencies of the counties and the federal government in developing plans and programs and mutual aid agreements for assistance for the prevention, control and extinguishment of fires on forest, pasture, and brush lands not within forest reserves[.], game management areas, public hunting areas, and natural area reserves.”

SECTION 2. Section 185-3, Hawaii Revised Statutes, is amended to read as follows:

“§185-3 Powers and duties of foresters and fire wardens. (a) The [state forester] administrator of forestry and wildlife shall be responsible to the board of land and natural resources for supervision of the organization plans and actions of the fire warden.

[1)] (b) The [state forester] administrator of forestry and wildlife shall have the power and duty to [following duties and powers]: [review]

- (1) Review and approve plans, prepared by the chief fire wardens, zoning each island under the chief fire warden's jurisdiction into fire districts; [recommend]
- (2) Recommend to the board the appointment of a fire warden for each fire district in accordance with section 185-2; [appoint,]
- (3) Appoint special fire wardens who shall serve without compensation but who shall have the same benefits, powers, and duties as district fire wardens during the term of their appointments pending the filling of vacant fire warden positions by the board or during periods when a fire warden is unable, because of illness, absence from the district, or for any valid reason, to perform or attend to the fire warden's duties for periods not to exceed two months[.]; [special fire wardens who shall serve without compensation but who shall have the same benefits, powers and duties as district fire wardens during the term of their appointments; establish]
- (4) Establish procedures and guidelines for the prevention, control and extinguishment of fires coming within the meaning of fires in this chapter; [establish]
- (5) Establish procedures, guidelines and conditions for the issuance of fire permits and for determining periods when forest areas shall be closed; [close]
- (6) Close forest areas when necessary; [summon]
- (7) Summon, when [the state forester deems it] necessary, men and fire fighting equipment, supplies and materials needed to extinguish fires; [act]
- (8) Act as fire boss or assign a fire boss to supervise the operations of controlling and extinguishing fires; [arrest]
- (9) Arrest without warrant any person who in the presence of the administrator of forestry and wildlife commits[ting in the state forester's presence] any of the offenses prohibited by this chapter; and [to do]
- (10) Do any act which the chief fire warden or district warden is empowered to perform under this chapter.

[2) Chief fire warden.] (c) The chief fire warden of each island shall have the power and duty to [following duties and powers]: [prepare]

- (1) Prepare a master plan for zoning the island into fire districts; [make]
- (2) Make recommendations to the [state forester] administrator of forestry and wildlife who will then recommend to the board for the appointment of fire wardens for each fire district; [take]

(3) Take necessary measures for the prevention, control, and extinguishment of fires coming within the meaning of this chapter; [supervise]

(4) Supervise the work of fire wardens, and, when necessary, recommend to the [state forester] administrator of forestry and wildlife for the appointment for periods of time limited to two months of special fire wardens to serve without compensation who shall have the same powers as district fire wardens during their term of appointment; [issue]

(5) Issue fire warning notices during dry periods or other seasons when fire hazards are great; [close]

(6) Close forest reserves, game management areas, public hunting areas, and natural area reserves to public access during dry periods when necessary to reduce fire risk, except it shall be lawful for the owner or the owner's agents or other persons regularly engaged in harvesting, processing or moving farm or forest products to enter the closed area for essential residential or commercial purposes; [issue]

(7) Issue burning permits and authorize fire wardens to issue burning permits as provided in section 185-7; [receive,]

(8) Receive, audit, and if correct, approve and transmit to the board through the [state forester] administrator of forestry and wildlife, all reports and accounts for expenses incurred in the prevention, control, and extinguishment of any fires which come within the meaning of this chapter; [summon]

(9) Summon, when [the chief fire warden deems] necessary, additional fire fighting assistance, equipment, supplies, or materials to assist fire wardens in fighting a fire; [assume]

(10) Assume full responsibility, upon relieving any fire warden of such responsibility, for directing the control and extinguishment of any fire coming within the meaning of this chapter, including directing the control and extinguishment of any fire on or threatening any government or private lands in forest reserves, game management areas, [and] public [shooting grounds;] hunting areas, and natural area reserves; [conduct]

(11) Conduct educational work in the protection of forest, pasture, and brush lands against fires; [arrest]

(12) Arrest without warrant any person committing in the chief fire warden's presence any of the offenses prohibited by this chapter.

[3] District fire warden.] (d) The district fire warden shall have the following duties and powers within the district fire warden's assigned district: [advise]

(1) Advise the chief fire warden of the need of fire warning notices; and, if issued, assist in posting the warnings; [issue]

(2) Issue burning permits, when authorized by the chief fire warden; [summon]

(3) Summon and have control of (unless relieved by the [state forester] administrator of forestry and wildlife or chief fire warden as herein provided) all persons, equipment, apparatus, supplies, and materials used or needed for fighting a fire; [authority]

(4) Authority to incur expenses for the purposes of and in accordance with this part, provided that the district fire warden may relinquish such authority to the chief fire warden of the island; [submit]

(5) Submit to the chief fire warden a correct and itemized account of expenses, together with a report of the fire on forms supplied by the department; [arrest]

(6) Arrest without warrant any person committing in the district fire warden's presence any of the offenses prohibited by this chapter."

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

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

(Approved June 13, 1988.)

ACT 339

H.B. NO. 3602

A Bill for an Act Relating to Franchise Investment Law.

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

SECTION 1. Chapter 482E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§482E- Civil penalty. (a) The director may bring an action to recover a civil penalty against any person who violates this chapter or who has knowingly violated a rule or order made pursuant to this chapter. A civil penalty of not more than \$100,000 may be assessed.

(b) No civil action may be brought under this chapter later than five years subsequent to the date of the violation or two years subsequent to the discovery of facts constituting the violation, but in no event shall any civil action be brought later than seven years subsequent to the date of the violation.”

SECTION 2. Chapter 482E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§482E- Criminal penalties. (a) Violations of this chapter shall be as follows:

- (1) An offense in which the total value of all money and anything else of value paid by or lost by the victim pursuant to the same scheme, plan, or representation, or to the same entity, amounts to less than \$5,000, shall be a class C felony.
- (2) An offense in which the total value of all money and anything else of value paid by or lost by the victim pursuant to the same scheme, plan, or representation, or to the same entity, amounts to \$5,000 or more, shall be a class B felony.

(b) In addition to the penalties provided in subsection (a), any person who violates this chapter shall forfeit to the State any interest or property acquired or maintained in connection with the violation, and any interest, security, claim, or property or contractual right of any kind affording a source of influence over any enterprise which was established, operated, controlled, conducted, or joined in connection with the violation.

(c) The value of all money and anything else of value paid or lost by more than one victim pursuant to the same scheme, plan, or representation, or to the same entity, may be aggregated in determining the class or grade of the offense.

(d) Upon conviction of a person under this chapter, the circuit court shall authorize the county attorney or prosecutor, or the attorney general, as the case may be, to seize all property or other interest declared forfeit pursuant to subsection (b) upon such terms and conditions as the court shall specify. The State shall dispose of such property or other interest as soon as feasible making due provision for the rights of innocent persons. If a property right or other interest is not exercisable or transferable so as to be of value to the State, it shall remain in the possession of

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the State and the director shall dispose of it as deemed proper by the director; provided that the violator shall not benefit from any such disposal.

(e) Notwithstanding any other law to the contrary, a person who has been convicted of a felony under this section, or has had a prior conviction for a crime which would constitute a felony under this section, shall be sentenced to a mandatory minimum period of imprisonment of one year without possibility of parole. Nothing in this subsection shall be construed to in any way limit the maximum term of imprisonment provided under chapter 706.

(f) Notwithstanding any other laws to the contrary, the following time limitations shall apply to prosecutions for felony violations of this chapter:

- (1) Prosecution for a felony under this chapter shall be commenced within five years after the offense is committed.
- (2) If the period prescribed in paragraph (1) has expired, prosecution for a felony under this chapter may be commenced within two years after the discovery of the offense by an aggrieved party who is not a party to the offense, but in no event shall prosecution commence more than seven years after the offense is committed."

SECTION 3. Chapter 482E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§482E- Violation of chapter; cease and desist order. (a) Whenever it appears to the director that any person has engaged in or is about to engage in any act or practice constituting a violation of this chapter, or any order or rule issued or adopted thereunder, the director may issue a cease and desist order to enforce compliance with this chapter or any such order or rule. The director shall have the discretion to determine the disposition of any executory contracts entered into by the respondent and shall specify in the order whether existing executory contracts shall be suspended or completed.

(b) Upon the issuance of an order under subsection (a), the director shall promptly notify the respondent that the order has been issued and the reasons therefor; that the respondent shall have thirty days to request a hearing in writing; and that if a hearing is requested, the hearing shall commence within fifteen business days of the request, unless extended by the director for good cause. During the pendency of any hearing requested, the cease and desist order shall remain in effect unless vacated or modified by the director.

(c) After the hearing, the director shall issue a final order that shall affirm, vacate, or modify the order in effect during the pendency of the hearing. If no hearing is requested and none is ordered by the director, the order shall remain in effect until it is modified or vacated by the director.

(d) All hearings and rehearings shall be public.

(e) Upon a proper showing, a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted and a receiver or conservator may be appointed for the respondent or the respondent's assets. The court shall not require the director to post a bond."

SECTION 4. Section 482E-10, Hawaii Revised Statutes, is repealed.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 6. This Act shall take effect upon its approval.

(Approved June 13, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

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H.B. NO. 3454

A Bill for an Act Relating to Hazardous Waste.

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

SECTION 1. The legislature finds that the safe and proper management of hazardous wastes, the permitting of hazardous waste facilities, and the regulation of such facilities are environmental issues that should properly be addressed and controlled by the State rather than the federal government. It is the purpose of this part, and it is the policy of this State, to protect the public health and safety, the health of living organisms, and the environment from the improper, inadequate, or unsound management of hazardous wastes; to establish a preventive and regulatory program for the generation, transportation, treatment, storage, and disposal of hazardous wastes; to assure the safe and adequate management of hazardous wastes within this State; and to authorize the State to adopt, administer, and enforce a hazardous waste program pursuant to the Federal Resource Conservation and Recovery Act of 1976 (Public Law 94-580, 42 U.S.C. § 6901), as amended.

SECTION 2. Chapter 342, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . HAZARDOUS WASTE MANAGEMENT

§342- Legislative policy; program priorities. The legislature finds that hazardous waste must be managed in a manner that protects the health, safety, and welfare of the citizens of the State and protects and conserves the State's natural resources and environment. Accordingly, the hazardous waste management program of this State shall be a preventive as well as a regulatory program that gives priority to:

- (1) The provision of technical assistance to generators to ensure the safe and proper handling of hazardous waste;
- (2) The establishment of a public education program to promote awareness of what constitutes hazardous waste and the dangers of improper disposal of such waste;
- (3) The promotion of waste reduction, recycling, exchange, and treatment as the preferred methods of managing hazardous waste, with disposal to be used only as a last resort when all other waste management methods are ineffective or unavailable; and
- (4) The coordination of hazardous waste management efforts among the counties of this State, taking into consideration the unique differences and needs of each county.

§342- Definitions. As used in this part, unless the context otherwise requires:

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous waste into or on any land or water so that hazardous waste or any constituent thereof may enter the environment, be emitted into the air, or discharged into any waters, including groundwaters.

"Financial responsibility" means a trust fund, surety bond, or letter of credit provided by owners or operators of hazardous waste treatment, storage, and disposal

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facilities to assure proper closure, post closure, and compensation for injuries to people or damage to property.

“Generator” means any person, by site, whose act or process produces hazardous waste or whose act first causes a hazardous waste to become subject to regulation under this part.

“Hazardous waste” means a solid waste, or combination of solid waste, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may:

- (1) Cause or significantly contribute to an increase in mortality or an increase in a serious irreversible or incapacitating reversible illness; or
- (2) Pose a substantial existing or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed;

or any waste identified as hazardous pursuant to this part.

“Hazardous waste management” means the systematic control over the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous waste.

“Hazardous waste management facility” means all contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units (for example, one or more landfills, surface impoundments, or combinations of them).

“Manifest” means the form used for identifying the quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.

“Solid waste” means solid waste as defined in section 342-51.

“Storage” means the containment of hazardous waste, temporarily or for a period of years, in a manner which does not constitute disposal.

“Transporter” means a person engaged in the off-site transportation of hazardous waste by air, rail, highway, water, or pipeline.

“Treatment” means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize the waste or render it nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. This term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it non-hazardous.

§342- Powers and duties. In addition to any other power or duty prescribed by law in this part or otherwise, the director shall prevent, control, and abate hazardous waste pollution in this State. In the discharge of this duty the director may:

- (1) Administer and enforce this part, rules implementing this part, and orders and permits issued pursuant to this part;
- (2) Establish by rule a list of hazardous wastes and a set of characteristics for identifying hazardous wastes;
- (3) Establish by rule standards applicable to generators of hazardous waste identified under this part, including requirements regarding:
 - (A) Obtaining an identification number;
 - (B) Requiring a solid waste generator to determine whether the waste that that person has generated is hazardous waste;
 - (C) Using appropriate containers for hazardous waste;

- (D) Packaging, labeling, marking, and placarding practices;
 - (E) Transporting and international shipping of hazardous waste;
 - (F) Developing a manifest system to track movements of hazardous wastes to designated facilities; and
 - (G) Submitting reports and recordkeeping practices;
- (4) Establish by rule standards applicable to transporters of hazardous waste identified or listed under this part including, but not limited to, requirements regarding:
- (A) Obtaining an identification number;
 - (B) Labeling practices;
 - (C) Transporting hazardous waste;
 - (D) Requiring action, including cleanup, if hazardous waste is discharged in transit;
 - (E) Using the manifest properly; and
 - (F) Submitting reports and record-keeping practices;
- (5) Establish by rules standards applicable to owners and operators of facilities for treatment, storage, or disposal of hazardous waste, identified or listed under this part, including but not limited to, requirements regarding:
- (A) Obtaining an identification number;
 - (B) Inspecting, monitoring, submitting reports, and record-keeping practices;
 - (C) Using the manifest properly;
 - (D) Designing, constructing, and locating of hazardous waste management facilities;
 - (E) Developing contingency plans to minimize unanticipated damage from treatment, storage, or disposal of hazardous waste;
 - (F) Maintaining and operating hazardous waste management facilities;
 - (G) Determining qualifications as to ownership, continuity of operation, training for personnel, closure and post-closure requirements, and financial responsibility (including financial responsibility for corrective action); and
 - (H) Issuing permits for hazardous waste management facilities;
- (6) Prohibit land disposal of specified hazardous wastes;
- (7) Appoint a master or masters to conduct investigations and hearings;
- (8) Receive or initiate complaints, hold hearings, and institute legal proceedings in the name of the State for prevention, control, or abatement of hazardous waste pollution;
- (9) Institute a civil action in any court of competent jurisdiction for injunctive relief to prevent violation of this part or any rule adopted thereunder, including permit conditions, without the necessity of a prior revocation of the permit;
- (10) Initiate, conduct, and support research, demonstration projects, and investigation, as the department's resources may allow, and coordinate state agency research programs pertaining to hazardous waste management;
- (11) Provide technical assistance to hazardous waste generators;
- (12) Promote public awareness of hazardous waste management concerns by conducting educational training programs for the general public as well as for the generators;
- (13) Promote industrial practices that reduce, avoid, or eliminate generation of hazardous waste;

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- (14) Cooperate with and receive money, with the approval of the governor, from the federal government, any political subdivision of the State, or from private sources for the study and control of hazardous waste;
- (15) Inventory sites and locations in the State where hazardous wastes have been stored or disposed of at any time; and
- (16) Adopt other rules which are necessary to obtain and maintain authorization under the federal program.

§342- Prohibition. No person, including any federal agency, the State, or any of its political subdivisions, shall own, operate, or construct a hazardous waste management facility without first securing a permit issued by the director.

§342- Hazardous waste releases. (a) The director may issue an order requiring the owner or operator of a facility or site to monitor, test, analyze, and report, with respect to a site, in order to ascertain the nature and extent of any hazardous waste release.

(b) Any person to whom the order is issued may be required to submit to the director within thirty days a proposal for carrying out the required monitoring, testing, analysis, and reporting.

(c) If the director determines that the owner or operator is not able to conduct monitoring, testing, and analysis in a satisfactory manner, the director may conduct such activities.

(d) The director may issue a cleanup order to any person who has released any hazardous waste into or on any land or water in an unlawful manner or who has released any material or substance into or on any land or water so as to result in unlawful hazardous waste disposal.

§342- Entry and inspection of premises. The director, in accordance with law, may enter and inspect any building or place for the purposes of:

- (1) Investigating an actual or suspected source of hazardous waste pollution;
- (2) Monitoring for compliance or noncompliance with this part, any rule or standard adopted by the department, any permit, or any other approval granted by the department;
- (3) Conducting reasonable tests;
- (4) Taking samples; or
- (5) Copying records.

No confidential information secured pursuant to this section by any official or employee of the department within the scope and course of the official's or employee's employment in the prevention, control, or abatement of hazardous waste pollution shall be disclosed by the official or employee except as it relates directly to hazardous waste pollution and then, only in connection with the official's or employee's official duties and within the scope and course of the official's or employee's employment.

§342- Intervention. Subject to the approval of the court, any individual shall have the right to intervene in any civil action to enforce the provisions of this part provided the individual has an interest which is, or may be, adversely affected.

§342- Technical assistance to generators. (a) The department shall establish a technical assistance program for generators of hazardous waste in the State. The program shall be designed to assist generators in obtaining information concerning hazardous waste management:

- (1) To identify and apply methods of reducing the generation of hazardous wastes;
- (2) To facilitate improved management of hazardous waste and compliance with the department's requirements; and
- (3) For other similar purposes.

The program shall emphasize assistance to the smaller businesses and small quantity generators that have limited technical and financial resources for obtaining information, assessing hazardous waste management methods, and developing and applying hazardous waste reduction techniques. Information and techniques developed under this program shall be made available to all generators in the State.

- (b) The assistance program shall include at least the following elements:
 - (1) Outreach programs, including on-site consultation at locations where hazardous waste is generated, seminars, workshops, training programs, and other similar activities designed to assist generators in evaluating their hazardous waste generation and management practices, identifying opportunities for waste reduction and improved management, and identifying subjects that require additional information and research;
 - (2) A program to assemble, catalog, and disseminate information about hazardous waste reduction and management methods, available commercial waste management facilities and consultant services, and regulatory programs;
 - (3) Evaluation and interpretation of information needed by generators to improve their management of hazardous waste; and
 - (4) Informational and technical research to identify alternative technical solutions that can be applied by specific generators to reduce the generation of hazardous waste.

(c) The program shall be coordinated with other public and private programs that provide management and technical assistance to smaller businesses and small quantity generators, including any program operated by a public or private educational institution.

§342- Public education program. The department shall develop and implement a public education program, the objectives of which shall be to:

- (1) Develop increased public awareness of and interest in environmentally sound hazardous waste management methods;
- (2) Encourage better informed decisions on hazardous waste management issues by businesses, industries, local governments, and the public; and
- (3) Disseminate practical information concerning methods in which households, other institutions, and organizations can improve the management of hazardous waste.”

SECTION 3. Section 342-1, Hawaii Revised Statutes, is amended by amending the following definitions to read:

“ “Complaint” means any written charge filed with or by the department that a person is violating any provision of this chapter or any rule[, regulation,] or order [promulgated] adopted pursuant to this chapter.

“Permit” means written authorization from the director to discharge waste, [or] to construct, modify, or operate any air pollution source, water pollution source, excessive noise source, or solid waste disposal system[.], or engage in hazardous waste management. A permit authorizes the grantee to cause, emit, or discharge waste or pollution in a manner or amount, or to do any act, not forbidden by this

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chapter[,] or by rules [and regulations promulgated] adopted under this chapter, but requiring review by the department.

“Person” means any individual, partnership, firm, association, public or private corporation, federal agency, the State or any of its political subdivisions, trust, estate, or any other legal entity.

“Pollution” means air pollution, water pollution, excessive noise, [or] solid waste pollution [including], or hazardous waste pollution [as hereinafter defined].

“Variance” means special written authorization from the director to cause, emit, or discharge waste or pollution in a manner or in an amount in excess of applicable standards, or to do an act that deviates from the requirements of rules [or regulations promulgated] adopted under this chapter.”

SECTION 4. Section 342-3, Hawaii Revised Statutes, is amended to read as follows:

“§342-3 [Powers, rulemaking,] Rules; appointment of hearings officers.

(a) The director may make, amend, and repeal state rules [and regulations] controlling and prohibiting air pollution, water pollution, noise pollution, solid waste pollution, hazardous waste pollution, and any other form of pollution found in this State. All rules [and regulations] shall be adopted pursuant to chapter 91. Any person heard at the public hearing shall be given written notice of the action taken by the department with respect to the rules [or regulations].

(b) In addition to other specific powers provided in this chapter, the director may appoint, without regard to chapters 76 and 77, hearings officers to conduct public participation activities, including public hearings and public informational meetings.”

SECTION 5. Section 342-11, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Any person who knowingly:

- (1) [transports] Transports any hazardous waste to a storage, treatment, or disposal facility [and who] which does not have a permit under section [342-53(b)] 342- to treat, store, or dispose of that particular hazardous waste;
- (2) [treats,] Treats, stores, or disposes of hazardous waste without first having a permit under section [342-53(b);] 342-; or
- (3)¹ [makes] Makes a false statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained, or used, for purposes of compliance with part of this chapter [342, part V], shall be subject to criminal penalties of not more than \$25,000 for each day of violation, or [to] imprisonment, not to exceed one year, or both. If the conviction[,] is for a violation committed after a first conviction, criminal punishment shall be by a fine of not more than \$50,000 for each day of violation, or by imprisonment for not more than two years, or both.”

SECTION 6. Section 342-51, Hawaii Revised Statutes, is amended to read as follows:

“§342-51 Definitions. As used in this part, unless the context otherwise requires:

“Approved solid waste disposal system” means a system for the storage, treatment, transfer, and disposal of solid waste approved by the director.

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste [or hazardous waste] onto any land or water so that such solid waste [or hazardous waste] or any constituent thereof, may enter the environment, [or] be emitted into the air, or discharged into any water, including ground waters.

[**"Financial responsibility"** means a trust fund, surety bond, or letter of credit to assure proper closure, post closure, and compensation for injuries to people or property, imposed by the director from owners or operators of hazardous waste treatment, storage, and disposal facilities.]

"Hazardous waste" means hazardous waste as defined in the Resource Conservation and Recovery Act of 1976 (Public Law 94-580, 42 U.S.C. 6901, et seq.), as amended.]

"Incineration" means the treatment of solid waste by burning in a furnace designed for the purpose wherein solid waste is essentially reduced to ash, carbon dioxide, and water vapor.

[**"Manifest"** means the form used for identifying the quantity, composition, and origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.]

"Open dump" means an unregulated disposal site that is operating without required pollution control measures.

"Sanitary landfill" means a land site on which engineering principles are utilized to bury deposits of solid waste without creating a nuisance or hazard to public health or safety.

"Solid waste" means garbage, refuse, and other discarded [solid] materials, including solid [waste materials], liquid, semi-solid, or contained gaseous materials resulting from industrial, commercial, mining, and agricultural operations, [and] sludge from waste treatment plants, water supply treatment plants, residues from air pollution control facilities, and [from] community activities, but does not include solid or dissolved material in domestic sewage or other substances in water sources[,] such as silt, dissolved or suspended solids in industrial waste water effluents, dissolved materials in irrigation return flows, or other common water pollutants. [This definition is also intended to include liquid waste materials such as waste oil, pesticide, paints, solvents, and hazardous waste.]

"Treatment" when used with reference to hazardous waste means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous.]'

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

SECTION 8. This Act shall take effect upon its approval, provided that section 342-, titled "Prohibition" in section 2 of this Act, and section 5 shall take effect upon the adoption of rules necessary to implement this Act.

(Approved June 13, 1988.)

Note

1. Should be underscored.

ACT 341

H.B. NO. 3308

A Bill for an Act Relating to Real Estate.

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

SECTION 1. Section 467-14, Hawaii Revised Statutes, is amended to read as follows:

"§467-14 Revocation and suspension of licenses. The real estate commission may revoke any license issued under this chapter, or suspend the right of the licensee to use the license, for any of the following causes:

- (1) Making any misrepresentation concerning any real estate transaction;
- (2) Making any false promises concerning any real estate transaction of a character likely to mislead another;
- (3) Pursuing a continued and flagrant course of misrepresentation, or making of false promises through advertising or otherwise;
- (4) Without first having obtained the written consent so to do of both parties involved in any real estate transaction, acting for both the parties in connection with the transaction, or collecting or attempting to collect commissions or other compensation¹ the licensee's services from both of such parties;
- (5) When the licensee, being a real estate salesperson, accepts any commission or other compensation for the performance of any of the acts enumerated in the definition set forth in section 467-1 of real estate salesperson from any person, copartnership, or corporation other than the salesperson's employer or the broker with whom the salesperson associates or, being a real estate broker or salesperson, compensates one not licensed under this chapter to perform any such act;
- (6) When the licensee, being a real estate salesperson, acts or attempts to act as a real estate broker or represents, or attempts to represent, any real estate broker other than the salesperson's employer or the broker with whom the salesperson is associated;
- (7) Failing, within a reasonable time, to account for any moneys belonging to others which may be in the possession or under the control of the licensee;
- (8) Any other conduct constituting fraudulent or dishonest dealings;
- (9) When the licensee, being a copartnership, permits any member of the copartnership who does not hold a real estate broker's license to actively participate in the real estate brokerage business thereof or permits any employee thereof who does not hold a real estate salesperson's license to act as a real estate salesperson therefor;
- (10) When the licensee, being a corporation, permits any officer or employee of the corporation who does not hold a real estate broker's license to have the direct management of the real estate brokerage business thereof or permits any officer or employee thereof who does not hold a real estate salesperson's license to act as a real estate salesperson therefor;
- (11) When the licensee, being a real estate salesperson, fails to file with the commission a written statement setting forth the name of the real estate broker by whom the licensee is employed or with whom the licensee is associated;
- (12) When the licensee fails to obtain on the contract between the parties to the real estate transaction confirmation of who the broker represents;

- (13) Violating this chapter, chapter 484, 514A, 514E, or 515, or the rules adopted pursuant thereto;
- (14) Splitting fees with or otherwise compensating others not licensed hereunder for referring business; provided that notwithstanding paragraph (5), a licensed broker may pay a commission to:
 - (A) A licensed broker of another state, territory, or possession of the United States if such broker does not conduct in this State any of the negotiations for which a commission is paid;
 - (B) A broker lawfully engaged in brokerage activity under the laws of a foreign country if such broker does not conduct in this State any of the negotiations for which a commission is paid; or
 - (C) A travel agency that in the course of business as a travel agency or sales representative, arranges for compensation the rental of transient vacation rental; provided that for purposes of this paragraph "travel agency" means any sole proprietorship, organization, trust, group, association, partnership, corporation, society, or combination of such, which for compensation or other consideration, acts or attempts to act as an intermediary between a person seeking to purchase travel services and any person seeking to sell travel services, including an air or ocean carrier;
- (15) Commingling the money or other property of the licensee's principal with the licensee's own;
- (16) Converting other people's moneys to the licensee's own use;
- (17) The licensee is adjudicated insane or incompetent[.]; and
- (18) Failing to ascertain and disclose all material facts concerning every property for which the licensee accepts the agency, so that the licensee may fulfill the licensee's obligation to avoid error, misrepresentation, or concealment of material facts; provided that for the purposes of this paragraph, the fact that an occupant has AIDS, AIDS Related Complex (ARC) or has been tested for HIV (human immunodeficiency) infection shall not be considered a material fact.

Disciplinary action may be taken by the commission whether the licensee is acting as a real estate broker, or salesperson, or on the licensee's own behalf.

No licensee¹ shall be suspended for longer than two years and no person whose license has been revoked shall be eligible to apply for a new license until the expiration of two years."

SECTION 2. Section 514A-82, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- "(b) In addition to the requirements of subsection (a) the bylaws shall provide for:
- (1) The method of removal from office of directors; that at any regular or special meeting of the apartment owners, any one or more members of the board of directors may be removed by the apartment owners and successors shall then and there be elected for the remainder of the term to fill the vacancies thus created. Such removal and replacement shall be in accordance with all applicable requirements and procedures in the bylaws for the removal and replacement of directors, including, but not limited to, any provisions relating to cumulative voting. If such removal and replacement is to occur at a special association meeting, the call for such meeting shall be by the president or by a petition to the secretary or managing agent signed by not less than twenty-five per cent of the apartment owners as shown in the association's record

of ownership; and provided further that if the secretary or managing agent shall fail to send out the notices for the special meeting within fourteen days of receipt of the petition, then the petitioners shall have the authority to set the time, date and place for the special meeting and to send out the notices for the special meeting in accordance with the requirements of the bylaws. Except as otherwise provided herein, such meeting for the removal and replacement from office of directors shall be scheduled, noticed, and conducted in accordance with the bylaws of the association.

- (2) The bylaws may be amended at any time by the vote or written consent of sixty-five per cent of all apartment owners; provided that each one of the particulars set forth in this section shall be embodied in the bylaws always; and provided further that any proposed bylaws with the rationale for the proposal may be submitted by the board of directors or by a volunteer apartment owners' committee. If submitted by that committee, it shall be accompanied by a petition signed by not less than twenty-five per cent of the apartment owners as shown in the association's record of ownership. The proposed bylaws, rationale, and ballots for voting on any proposed bylaw shall be mailed by the board of directors to the owners at the expense of the association for vote or written consent without change within thirty days of the receipt of the petition by the board of directors. The vote or written consent required to adopt the proposed bylaw shall not be less than sixty-five per cent of all apartment owners; provided that the vote or written consent must be obtained within one hundred twenty days after mailing. In the event that the bylaw is duly adopted, then the board shall cause the bylaw amendment to be recorded in the bureau of conveyances or filed in the land court, as the case may be. The volunteer apartment owners' committee shall be precluded from submitting a petition for a proposed bylaw which is substantially similar to that which has been previously mailed to the owners within one year after the original petition was submitted to the board. This subsection shall not preclude any apartment owner or voluntary apartment owners' committee from proposing any bylaw amendment at any annual association meeting.
- (3) Notices of association meetings, whether annual or special, shall be sent to each member of the association of apartment owners at least fourteen days prior to the meeting, and shall contain at least: the date, time, and place of the meeting, the items on the agenda for the meeting, and a standard proxy form authorized by the association, if any; and
- (4) No resident manager, or managing agent shall solicit, for use by the manager or managing agent, any proxies from any apartment owner of the association of owners which employs the resident manager or managing agent, nor shall the resident manager or managing agent cast any proxy vote at any association meeting except for the purpose of establishing a quorum. No member of a board of directors who uses association funds to solicit proxies shall cast any of these proxy votes for the election or reelection of board members at any association meeting unless the proxy form specifically authorizes the board member to vote for the election or reelection of board directors and the board first posts notice of its intent to solicit proxies in prominent locations within the project at least thirty days prior to its solicitation of proxies; provided that if the board receives within seven days of the posted notice a request by any owner for use of association funds to solicit proxies accompanied by a statement, the board shall:

- (A) Mail to all owners a proxy form containing either the names of all owners who have requested the use of association funds for soliciting proxies accompanied by their statements; or
- (B) Mail to all owners a proxy form containing no names, but accompanied by a list of names of all owners who have requested the use of association funds for soliciting proxies and their statements.

The statement shall not exceed one hundred words, indicating the owner's qualifications to serve on the board and reasons for wanting to receive proxies.

- (5) The apartment owners shall have the irrevocable right, to be exercised by the board of directors, to have access to each apartment from time to time during reasonable hours as may be necessary for the operation of the property or for making emergency repairs therein necessary to prevent damage to the common elements or to another apartment or apartments.

The provisions of this subsection [(b)] shall be deemed incorporated into the bylaws of all condominium projects existing as of January 1, 1988, and all condominium projects created after that date."

SECTION 3. Section 514A-83.1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) All meetings of the board of directors,¹ other than executive sessions, shall be open to all members of the association, [provided that] and association members who are not on the board of directors may [not] participate in any deliberation or discussion, other than executive sessions, unless [expressly so authorized by the vote of] a majority of a quorum of the board of directors[.] votes otherwise."

SECTION 4. Section 514A-83.2, Hawaii Revised Statutes, is amended to read as follows:

"§514A-83.2 Proxies. (a) A proxy, to be valid, must be delivered to the secretary of the association of apartment owners or the managing agent, if any, no later than 4:30 p.m. on the second business day prior to the date of the meeting to which it pertains, and must contain at least: the name of the association of apartment owners, the date of the meeting of the association of apartment owners, the printed name and signature of the person or persons giving the proxy, the apartment or apartments for which the proxy is given, the printed name of the person or entity to whom the proxy is given, and the date that the proxy is given.

(b) A proxy shall only be valid for the meeting to which the proxy pertains and its adjournments, may designate any person as proxy, and may be limited as the apartment owner desires and indicates.

(c) Proxies may be given to the board of directors as an entity.

(d) No officer of a board of directors shall use association funds to solicit proxies; provided that this shall not prevent an officer from exercising his right as an apartment owner under Section 514-82 (b)(4).

(e) Nothing in this section shall affect the holder of any proxy under a first mortgage of record encumbering an apartment or under an agreement of sale affecting an apartment."

SECTION 5. Section 514A-83.4, Hawaii Revised Statutes, is amended to read as follows:

"§514A-83.4 Meeting minutes. Minutes of meetings of the board of directors and association of apartment owners and the association's financial state-

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ments shall be available for examination by apartment owners at convenient hours at a place designated by the board, shall be mailed to any owner upon the owner's request at the owner's cost and shall include the recorded vote of each board member on all motions except motions voted on in executive session."

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. New statutory material is underscored.

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

(Approved June 13, 1988.)

Note

1. So in original.

ACT 342

H.B. NO. 3305

A Bill for an Act Relating to Dental Service Organizations.

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 DENTAL SERVICE ORGANIZATIONS

§ -1 Definitions. As used in this Chapter, unless the context otherwise requires:

“Dental service organization” means any person who undertakes to provide or to arrange for or administer one or more prepaid dental insurance plans.

“Prepaid dental insurance” means any contractual arrangement for dental services provided directly or arranged for or administered directly on a prepaid individual, group, or capitation basis.

“Subscriber” means a member of the public or group who has contracted with a dental service organization for the provision of dental services including dependents who are entitled to dental services under the plan solely because of their status as dependents of the subscriber.

§ -2 Registration required. All dental service organizations offering prepaid dental insurance shall file with the director of commerce and consumer affairs an application for registration on a form prescribed by the director, and provide copies to the department of commerce and consumer affairs of all materials given to subscribers.”

SECTION 2. Section 423-1, Hawaii Revised Statutes, is amended to read as follows:

“§423-1 Dental service corporation, formation. A nonprofit dental service corporation may be formed for the purposes of contracting with individuals and

corporations, both public and private, for defraying or assuming the costs of services of dentists and dental surgeons, and the contracting on behalf of dentists and dental surgeons to furnish such services. The director of commerce and consumer affairs shall grant to applicants who file a petition in conformity with section 416-20 a charter of incorporation for the establishment and conduct of a dental service corporation; provided that the corporation may not engage directly or indirectly in the performance of the corporate purposes or objects unless all of the following requirements are met:

- (1) At least [one-fourth of all] fifty licensed dentists and dental surgeons in this State become members of the corporation;
- (2) Membership in the corporation and an opportunity to render professional services upon a uniform basis are available to all licensed dentists and dental surgeons in this State;
- (3) Voting by proxy and cumulative voting are prohibited; and
- (4) Certificate of compliance with the requirements of paragraphs (1), (2), and (3) has been issued to the corporation by the board of dental examiners.

Any charter granted or corporation created under authority of this section shall be subject to all general laws enacted in regard to nonprofit corporations."

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

SECTION 4. This Act shall take effect upon approval.

(Approved June 13, 1988.)

ACT 343

H.B. NO. 3265

A Bill for an Act Relating to Banks.

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

SECTION 1. Section 403-2, Hawaii Revised Statutes, is amended to read as follows:

"§403-2. [“Bank” and “banking business” defined; classes of banks.]Definitions. For purposes of this chapter:

[The word “banks”, as used in this chapter,] “Banks” means any incorporated banking institution which has been incorporated to conduct the business of discounting and negotiating promissory notes, drafts, bills of exchange, and other evidence of debt; to receive deposits of money and deal in commercial paper; to lend money upon the security of real or personal property; to buy and sell gold and silver bullion, foreign money, or bills of exchange; and to do such other business as may be usual or lawful in a banking business. The soliciting, receiving, or accepting of money or its equivalent on deposit as a regular business shall be deemed to be doing a banking business whether the deposit is made subject to check or is evidenced by a certificate of deposit, a passbook or other writing; provided that nothing in this chapter shall apply to or include money or its equivalent left in escrow or left with an agent, pending investment in real estate or securities for or on account of the agent’s principal. It shall be unlawful for any corporation, partnership, firm, or individual to engage in or transact a banking business within the State, except by means of a corporation duly organized for such purpose.

Banks are divided into the following classes:

- (1) Commercial banks; and
- (2) Savings banks.

"Commercial bank", when used in this chapter, means any bank which is authorized by law to receive deposits of money, deal in commercial paper, make loans thereon, or to lend money on real or personal property as security, or to purchase or discount bills, notes, or other commercial paper, or to buy, sell, or advertise for purchase or sale such securities as are permissible for investment by commercial banks, gold and silver bullion, or foreign money or bills of exchange. A commercial bank may also act as broker or agent for others in making or procuring loans on real estate located within the State, and receive for these services a reasonable fee or commission; but shall not in any case guarantee either the principal or interest of any such loans, nor guarantee the truth of any statement made by any applicant filing the applicant's application for any of the loans. A commercial bank may transact the business of a savings bank.

"Savings bank", when used in this chapter, means a bank organized for the purposes of accumulating and loaning its funds and the funds of its depositors, and which may loan, invest, and collect the same, with interest; and may repay depositors with or without interest, and having power to invest the funds in such property, securities, and obligations as may be authorized by this chapter; and to pay a stipulated rate of interest on deposits made for a stated period or upon special terms. Where the term "savings bank" is used in this chapter it shall also apply to any commercial bank if it also transacts the business of a savings bank by accepting savings deposits, but the term only applies with regard to the savings bank business transacted by the commercial bank.

"Foreign bank" or "foreign banker" includes: (1) every corporation, except a national bank whose home office is located in the State, not organized under the laws of the State, doing any banking business within the State; (2) every unincorporated company, partnership, or association of two or more individuals organized under or pursuant to the laws of another state, territory, or country doing any banking business as defined in this chapter; and (3) every nonresident of the State doing any banking business in the nonresident's own name and right only.

"Insolvency" defined. A bank shall be deemed to be insolvent when the value of its assets is insufficient to pay its depositors and its creditors. In valuing the bank's assets the commissioner shall follow the same method as prescribed in section 403-162.

"Banking company" means a commercial bank, merchant bank, or other institution that engages in banking activities usual in connection with the business of banking in the jurisdiction or jurisdictions in which such institution is organized and operating.

"Control" means the power, directly or indirectly, to direct the management or policies of a depository institution or banking company or to vote twenty-five per cent or more of any class of voting securities of a banking company or depository institution. "Control" also includes the meaning set forth in section 403-38.8(b)(2).

"Depository institution" means any bank, which is incorporated in the State and lawfully engaging in or transacting a banking business in the State, and any national bank whose home office is located in the State.

"Intrapacific banking company" means a banking company (1) whose home office is located in and whose operations are principally conducted in a reciprocal region, and (2) which is not directly or indirectly owned or controlled by any holding company other than a holding company for an intrapacific banking company.

"Holding company" means a corporation, a partnership, or a joint-stock company that controls a depository institution or banking company.

"Holding company for a intrapacific banking company" means a holding company (1) whose subsidiary banking companies principally conduct their oper-

ations in a reciprocal region, and (2) which is not directly or indirectly owned or controlled by any holding company other than a holding company for an intrapacific banking company.

Operations are “principally conducted” where the largest percentage of aggregate deposits of a depository institution or banking company or all subsidiaries of a holding company which are depository institutions or banking companies are held.

“Reciprocal region” means any one of the territories or countries of Guam, American Samoa, the Federated State of Micronesia, the Republic of Palau, the Commonwealth of the Northern Marianas, or the Republic of the Marshall Islands, so long as all remain U.S. dollar-based economies.

“State branch” means an office or place of business in the State of an intrapacific banking company at which deposits are received.”

SECTION 2. Section 403-3, Hawaii Revised Statutes, is repealed.

SECTION 3. Section 403-4, Hawaii Revised Statutes, is repealed.

SECTION 4. Section 403-5, Hawaii Revised Statutes, is repealed.

SECTION 5. Section 403-6, Hawaii Revised Statutes, is repealed.

SECTION 6. Section 403-16, Hawaii Revised Statutes, is repealed.

SECTION 7. Chapter 403, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§403- Acquisitions by intrapacific banking companies and their holding companies. (a) No intrapacific banking company or holding company for an intrapacific banking company may acquire control of a depository institution, or otherwise directly or indirectly engage in the business of banking anywhere in the State, except pursuant to sections 403-11, 403- , chapter 405D, or pursuant to this section.

(b) If permissible under subsection (d) of this section, an intrapacific banking company may:

- (1) Establish and operate one or more state branches; or
- (2) Merge or consolidate with a depository institution or acquire and operate one or more state branches.

(c) If permissible under subsection (d) of this section, a holding company for an intrapacific banking company may:

- (1) Acquire control of a depository institution;
- (2) Establish and operate a depository institution; or
- (3) Merge or consolidate with a holding company for a depository institution or acquire the assets of a holding company for a depository institution and thereby acquire control of one or more depository institutions.

(d) Any establishment or acquisition of a state branch or depository institution or holding company for a depository institution, or any acquisition of or merger or consolidation with a depository institution or holding company for a depository institution whose operations are principally conducted in the State, by an intrapacific banking company or holding company for an intrapacific banking company, is permissible only if the reciprocal region in which the intrapacific banking company or holding company for an intrapacific banking company principally conducts its operations has enacted legislation which allows a depository institution or holding

company for a depository institution in the State to establish a banking presence or acquire or merge with a banking company or holding company in that reciprocal region under terms and conditions which are substantially comparable to or less restrictive than those which apply in the State to such commencement of operations, acquisitions, and mergers.

(e) The commissioner may not approve the establishment or acquisition of a State branch or depository institution or holding company for a depository institution, or the acquisition of or merger or consolidation with a depository institution or a holding company, whose operations are principally conducted in the State, by an intrapacific banking company or a holding company for an intrapacific banking company unless the commissioner finds, after notice and opportunity for hearing, that the laws of the reciprocal region in which the intrapacific banking company or holding company principally conducts its operations meet the requirements of subsection (d). The applicant shall have the burden of requesting a hearing in accordance with the rules of the commissioner."

SECTION 8. Chapter 403, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§403- Transactions unlawful without approval. (a) Unless the commissioner gives prior written approval, no person may:

- (1) Acquire, directly or indirectly, a depository institution or holding company whose operations are principally conducted in the State;
 - (2) Vote the stock of a depository institution or holding company acquired in violation of subsection (a);
 - (3) Acquire, directly or indirectly, the voting or nonvoting securities of a depository institution or a holding company whose operations are principally conducted in the State if the acquisition would result in that person's obtaining more than twenty-five per cent of the authorized voting securities of the depository institution or holding company if the nonvoting securities were converted into voting securities;
 - (4) Establish or operate a state branch; or
 - (5) Merge or consolidate with a depository institution or a holding company whose operations are principally conducted in the State.
- (b) The commissioner may obtain injunctive relief to prevent any change in control or other violation or impending violation of this section."

SECTION 9. Chapter 403, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§403- Application for approval. (a) Application to the commissioner for approval must be on a form prescribed by the commissioner and must include:

- (1) Information which the commissioner requires to make the finding specified in subsection (c); and
 - (2) Unless the applicant is a resident of the State, a corporation organized in the State, or a foreign corporation admitted to do business in the State, a written consent to service of process on a resident of the State in any action arising out of the applicant's activities in the State.
- (b) The commissioner may approve the application subject to any terms and conditions which the commissioner considers necessary to protect the public interest.
- (c) The commissioner shall approve an application if the commissioner finds:
- (1) That the proposed transaction would not be detrimental to the safety and soundness of the applicant or to any depository institution;

- (2) The applicant, its executive officers, directors, or principal stockholders have established a record of sound performance, efficient management, financial responsibility and integrity so that it would be in the interest of the depositors, other customers, creditors, or shareholders of a depository institution, or the public to authorize the proposed transaction;
- (3) The financial condition of the applicant or any depository institution or banking company which is a participant in the proposed transaction would not jeopardize the financial stability of the applicant or depository institution or banking company, or prejudice the interests of the depositors or other customers of the applicant or other depository institution or banking company;
- (4) The consummation of the proposed transaction will not tend to lessen competition substantially, unless the commissioner finds that the anticompetitive effects of the proposed transaction are clearly outweighed by the benefit of meeting the convenience and needs of the relevant market or markets to be served; or
- (5) The applicant has established a record of meeting the needs for credit of the communities which it or its subsidiary depository institution or institutions or its subsidiary banking company or banking companies serves.”

SECTION 10. Chapter 403, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§403- Examination, supervision, and regulation. (a) The commissioner may examine and supervise any intrapacific banking company or holding company for an intrapacific banking company which has been authorized to do business in the State pursuant to section 403-. Such banking company and holding companies are subject to regulation in the same manner as depository institutions and holding companies organized under the laws of the State and must pay the same fees for supervision and examination. Any intrapacific banking company taking deposits in this State shall be insured by the FDIC.

(b) If any intrapacific banking company or holding company for an intrapacific banking company, by virtue of any action, ceases to be an intrapacific banking company or holding company for an intrapacific banking company, and it does not become a depository institution, the commissioner shall order the entity to immediately divest itself of its direct or indirect ownership or control of the stock of any depository institution or holding company for a depository institution acquired by its¹ pursuant to this section.”

SECTION 11. Chapter 403, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§403- Equality of rights, powers, and privileges. Any depository institution or holding company for a depository institution acquired, or the resulting institution in a merger, under the provisions of this section has all the rights, powers, and privileges of any other such depository institution or holding company for a depository institution under the laws of the State, the rules of the commissioner, the applicable laws of the United States, and the rules and regulations of the relevant federal regulatory agencies having jurisdiction over that type of institution. These right¹, powers, and privileges include, but are not limited to, acquiring control of, merging with, acquiring all or a portion of the assets of, or assuming all or a portion of the liabilities of, a depository institution or holding company.”

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SECTION 12. Chapter 403, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§403- Provisions not severable. (a) The legislature intends to allow a banking company in a reciprocal region or a holding company for an intrapacific banking company which controls a banking company in a reciprocal region to acquire a depository institution in the State or engage in the business of banking in the State only under the conditions and limitations imposed in sections 403- through 403- , inclusive, of this chapter, and to this end, those provisions are not severable. If any provisions of section 403- to 403- , inclusive, or any application thereof to any person, thing or circumstance is held invalid, the other provisions of sections 403- to 403- , inclusive, become ineffective.

(b) If a banking company or a holding company for an intrapacific banking company has received the commissioner's approval pursuant to section 403- to acquire a depository institution or to engage in the business of banking in this State and has acquired the depository institution or has commenced engaging in the business of banking in the State and a provision of sections 403- to 403- , inclusive, is subsequently held invalid, the banking company or holding company for an intrapacific banking company may maintain ownership of the depository institution or continue to engage in the business of banking in this State, as the case may be, subject to the provisions of sections 403- to 403- , inclusive, which can be given effect without the provisions declared invalid by the court. The approval given by the commissioner remains effective if the banking company or holding company and the depository institution continue to exercise only those powers granted by this chapter."

SECTION 13. Statutory material to be repealed is bracketed. New statutory material is underscored.²

SECTION 14. This Act shall take effect upon its approval; provided that the repeal of any of the provisions of Chapter 403, Hawaii Revised Statutes, shall not affect any licenses or charters which have been granted, any rights or duties that matured, any rules which have been adopted by the Commissioner, any proceedings that were begun, any penalties that were incurred, nor any privileges, immunities, or transactions that were effected prior to the effective date of this Act.

(Approved June 13, 1988.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

ACT 344

S.B. NO. 2276

A Bill for an Act Relating to Hawaii-Made Products.

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

SECTION 1. Section 486-26.8, Hawaii Revised Statutes, is amended to read as follows:

"[§486-26.8] Hawaii-made products. (a) No person shall keep, offer, display, or expose for sale, or solicit for the sale of any item, product, souvenir, or any other merchandise which is labeled "made in Hawaii" or which by any

other means misrepresents the origin of the item as being from any place within the State, which has not been manufactured, assembled, or fabricated within the State and which has not had at least [twenty-five] fifty-one per cent of its wholesale value added by manufacture, assembly, or fabrication within the State.

(b) No person shall keep, offer, display, or expose for sale, or solicit for sale of any processed milk or milk products or raw agricultural commodity which is labeled with the term "island fresh", or other like terms, or by which any other means misrepresents the origin of the item as being from any place within the State unless:

- (1) The processed milk or milk product has been at least ninety per cent produced in this State; or
- (2) The raw agricultural commodity has been one hundred per cent produced in this State.

For the purposes of this subsection, "raw agricultural commodity" means any agricultural product, including but not limited to horticultural (including floricultural), nuts, coffee, fruits (including pineapple), and vegetable products, livestock and livestock products, bees and honey, poultry and poultry products, eggs and egg products, timber and Christmas trees, fish and fish products, in their natural state."

SECTION 2. 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 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved June 14, 1988.)

ACT 345

S.B. NO. 2422

A Bill for an Act Relating to Uninsured Motorists.

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

SECTION 1. Act 347, Session Laws of Hawaii 1987, section 2, is amended by amending section 431:10C-117 to read as follows:

“§431:10C-117 Penalties.

- (a)** (1) Any person subject to this article in the capacity of the operator, owner or registrant of a motor vehicle in this State, or registered in this State, who violates any applicable provision of this article, shall be subject to citation for the violation by any county police department in a form and manner approved by the violations bureau of the district court of the first circuit.
- (2)** Notwithstanding any provision of the Hawaii Penal Code, each violation shall be deemed a separate offense and shall be subject to a fine of not less than \$100 nor more than \$1,000 [and the fine] which shall not be suspended; provided that if the person is convicted of not having had a no-fault policy in effect at the time the citation was issued, the fine [for the first offense] shall be \$100[, with] for the first offense

and a minimum of \$400 for each [additional] subsequent offense. In addition to the fine in this paragraph, if any person operates a motor vehicle without a valid no-fault policy in effect insuring the driver or registered owner, or both, either the driver's license of the driver and of the registered owner shall be suspended for six months or they shall be required to maintain proof of financial responsibility pursuant to sections 287-21(2), (3), or (4) and keep a nonrefundable no-fault insurance policy in force for six months; provided that any person cited under this section shall have an opportunity to present a good faith defense, including but not limited to lack of knowledge or proof of insurance. The general penalty provision of this section shall not apply to:

- (A) Any operator of a motor vehicle owned by another person if the operator's own insurance covers such driving; nor
 - (B) Any operator of a motor vehicle owned by that person's employer during the normal scope of that person's employment.
- (3) In the case of multiple violations, the court shall in addition to any other penalty impose the following penalties:
- (A) Imprisonment of not more than thirty days;
 - [(B) Suspension or revocation of the drivers' licenses of the driver and of the registered owner;
 - (C)] (B) Suspension or revocation of the motor vehicle registration plates of the vehicle involved;
 - [(D)] (C) Impoundment, or impoundment and sale, of the motor vehicle for the costs of storage and other charges incident to seizure of the vehicle, or any other cost involved pursuant to section 431: 10C-301; or
 - [(E)] (D) Any combination of such penalties.

(b) Any person, in the capacity of a licensed or unlicensed motor vehicle insurer, general agent, subagent, solicitor, or other representative, who violates any provision of this article shall be assessed a civil penalty not to exceed \$5,000 for each violation.

(c) Any person, in the capacity of a licensed or unlicensed motor vehicle insurer, general agent, subagent, solicitor, or other representative, who knowingly violates any provision of this article shall be assessed a civil penalty of not less than \$3,000 and not to exceed \$10,000 for each violation.

- (d) (1) Violations of subsections (b) and (c) shall be subject to the construction that each repetition of such act shall constitute a separate violation.
- (2) The imposition of any civil penalty under subsections (a), (b) or (c) shall be in addition to, and shall not in any way limit or affect the application of, any other civil or criminal penalty, or public safety condition or requirement, provided by law."

SECTION 2. This Act does not apply to any citations issued prior to its effective date.

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

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

(Approved June 14, 1988.)

ACT 346

S.B. NO. 2522

A Bill for an Act Relating to Land Court Registration.

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

SECTION 1. Section 501-9, Hawaii Revised Statutes, is amended to read as follows:

“§501-9 Assistant registrars; powers. The registrar of conveyances in the bureau of conveyances designated in section 502-1 and the registrar of conveyances’ deputy are assistant registrars to carry out the duties of recording and registration required under this chapter. Assistant registrars have the same authority as the registrar to make all memoranda affecting the title of land, to enter and issue new certificates of title as provided herein and to affix the seal of the court to the certificates [and duplicate certificates] of titles. In executing this chapter, the assistant registrars shall be subject to the general direction of the registrar in order to secure uniformity throughout the State. In case of the death or disability of the registrar, the assistant registrars in Honolulu shall perform the duties of the registrar until the vacancy is filled or the disability removed.”

SECTION 2. Section 501-74, Hawaii Revised Statutes, is amended to read as follows:

“§501-74 Decree, contents of. Every decree of registration shall bear the date of the year, day, hour, and minute of its entry, and shall be signed by the registrar. It shall state whether the owner is married or unmarried, and if married the full name of the husband or wife. If the owner (or spouse of the owner) has been known by more than one name, all the names of such person shall be stated. The wife’s maiden name and surname shall be stated in all cases. If the owner is under disability it shall state the nature of the disability, and if a minor, shall state the minor’s age. It shall contain a description of the land as finally determined by the court; and shall set forth the estate of the owner, and also, in such manner as to show their relative priority, all particular estates, mortgages, easements, liens, attachments, and other encumbrances including rights of husband or wife, if any, to which the land or the owner’s estate is subject; and may contain any other matter properly to be determined in pursuance of this chapter. The decree shall be stated in a convenient form for transcription upon the certificate[s] of title hereinafter mentioned.”

SECTION 3. Section 501-75, Hawaii Revised Statutes, is amended to read as follows:

“§501-75 Transcription of decree in registry; certificate of title. Immediately upon the entry of the decree of registration the registrar shall send a certified copy thereof, under the seal of the court, to the assistant registrar in the bureau of conveyances, who shall transcribe the decree in a book to be called the registration book, in which a leaf or leaves in consecutive order shall be devoted exclusively to each title. The entry made by the assistant registrar in this book in each case shall be the original certificate of title, and shall be signed by the assistant registrar and sealed with the seal of the court. All certificates of title shall be numbered consecutively, beginning with number one. [The assistant registrar shall in each case make an exact duplicate of the original certificate, including the seal, but putting on it the words “owner’s duplicate certificate,” and deliver the same to the owner or to the owner’s attorney duly authorized.]

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[In case of a variance between the owner's duplicate certificate and the original certificate the original shall prevail.] The certified copy of the decree of registration shall be filed and numbered by the assistant registrar with a reference noted on it to the place of record of the original certificate of title. When several parcels of land which are not contiguous have been registered under one application as permitted by section 501-25, the decree of registration shall expressly state that the assistant registrar, after entering the decree in the registration book, may cancel the original certificate of title and issue in place thereof a separate transfer certificate of title for each parcel so registered."

SECTION 4. Section 501-84, Hawaii Revised Statutes, is amended to read as follows:

"§501-84 Certificates, when two or more owners. Where two or more persons are registered owners as tenants in common, [or otherwise], one [owner's duplicate] certificate may be issued for the whole land, or a separate [duplicate] certificate may be issued to each for the owner's undivided share."

SECTION 5. Section 501-85, Hawaii Revised Statutes, is amended to read as follows:

"§501-85 Substitution, one certificate for several, several for one; subdivisions, maps. A registered owner [holding one duplicate certificate for] of several distinct parcels of land covered by one certificate of title may [surrender it], with the approval of the court, [and receive] have that certificate of title canceled and separate certificates entered for portions thereof. A registered owner [holding separate duplicate certificates] [for] of two or more distinct parcels of land, which are contiguous, or which are so adjacent (although separated by a roadway or stream or other strip of land) as to form one lot of land for practical use, may [surrender the certificates, and,] with like approval and by a decree of the court, have that certificate canceled [receive] and a single original [and duplicate] certificate for the whole, or separate certificates for subdivisions thereof, [issued] entered in place of the [surrendered] canceled certificates; provided that if any person or persons other than the registered owner appear to have an interest in any part of the premises proposed to be consolidated, or in any intervening roadway, stream, or strip of land as aforesaid, the court shall not entertain the application for consolidation unless the other person or persons join with the owner in the application, signing and acknowledging the same in the same manner as provided for original applications, or unless the person or persons if not joining in the application have been given notice thereof and an opportunity to be heard as shall be ordered by the court.

Any owner proposing to combine two or more parcels of land, or to subdivide any registered land, shall file with the court an application therefor, together with a map or plan showing the proposed combination or subdivision and accurately delineating thereon all boundaries, streets, passage ways, and other easements connected therewith. The court, before approving the same, and authorizing the issuance of any new certificate or certificates thereon, shall cause the same to be verified by the department of accounting and general services and be satisfied that the same are accurately represented, and that the applicant has complied with the laws and regulations covering subdivisions in the county concerned, applicable thereto."

SECTION 6. Section 501-88, Hawaii Revised Statutes, is amended to read as follows:

"§501-88 Certificate as evidence. The original certificate in the registration book, and any copy thereof duly certified under the signature of the registrar or

assistant registrar, and the seal of the court, [and also the owner's duplicate certificate,] shall be received as evidence in all the courts of the State and shall be conclusive as to all matters contained therein, except as otherwise provided in this chapter.”

SECTION 7. Section 501-103, Hawaii Revised Statutes, is amended to read as follows:

“§501-103 Conveyances of less than fee simple. No new certificate shall be entered or issued upon any transfer of registered land which does not divest the title in fee simple from the owner or one of the registered owners. All interests in registered land less than an estate in fee simple shall be registered by filing or recording with the assistant registrar the instrument creating or transferring or claiming such interest, and by a brief memorandum thereof made by the assistant registrar upon the certificate of title, and signed by the assistant registrar. [A similar memorandum shall also be made on the owner's duplicate.] The cancellation or extinguishment of such interests shall be registered in the same manner.”

SECTION 8. Section 501-106, Hawaii Revised Statutes, is amended to read as follows:

“§501-106 [Presentation of owner's duplicate on entry of new certificate.] Entry of new certificate. No new certificate of title shall be entered, and no memorandum shall be made upon any certificate of title by the registrar or assistant registrar, except in pursuance of any deed or other voluntary instrument, [unless the owner's duplicate certificate is presented with the instrument, except] or in cases expressly provided for in this chapter or upon the order of the court, for cause shown. Whenever such order is made, a memorandum thereof shall be entered on the new certificate of title [and on the owner's duplicate]. [The production of the owner's duplicate certificate whenever any voluntary instrument is presented for registration shall be conclusive authority from the registered owner to the registrar or assistant registrar to enter a new certificate or to make a memorandum of registration in accordance with the instrument, and the] The new certificate or memorandum shall be binding upon the registered owner and upon all persons claiming under the registered owner, in favor of every purchaser for value and in good faith; provided that in all cases of registration procured by fraud the owner may pursue all the owner's remedies against the parties to the fraud, without prejudice however to the rights of any innocent holder for value of a certificate of title; and provided further that after the transcription of the decree of registration on the original application any subsequent registration under this chapter procured by the presentation of a [forged duplicate certificate, or] forged deed or other instrument, shall be void. [In case of the loss or theft of an owner's duplicate certificate notice shall be sent by the owner or by some one in the owner's behalf to the assistant registrar as soon as the loss or theft is discovered.]”

SECTION 9. Section 501-108, Hawaii Revised Statutes, is amended to read as follows:

“§501-108 Conveyance of fee; procedure. An owner desiring to convey in fee registered land or any portion thereof shall execute a deed of conveyance, which the grantor or the grantees may present to the assistant registrar in the bureau of conveyances; provided that the assistant registrar shall not accept for registration any deed, mortgage, lease, or other voluntary instrument, unless a reference to the number of the certificate of title of the land affected by such instrument is incorporated in the body of the instrument tendered for registration.

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The assistant registrar shall note upon all documents filed or recorded concurrently with the recorded instrument the document number and the certificate of title number in the spaces provided therefor wherever required.

[The grantor's duplicate certificate shall be produced and presented at the same time.] The assistant registrar shall thereupon, in accordance with the rules and instructions of the court, make out in the registration book a new certificate of title to the grantee[, and shall prepare and deliver to the grantees an owner's duplicate certificate]. The assistant registrar shall note upon the original [and duplicate] certificate[s] the date of transfer, [the volume and page of the registration books where the new certificate is registered,] and a reference by number to the last prior certificate. [The grantor's duplicate certificate shall be surrendered, and the word "canceled" stamped upon it.] The original certificate shall [also] be stamped "canceled." The deed of conveyance shall be filed or recorded and indorsed with the number and place of registration of the certificate of title of the land conveyed."

SECTION 10. Section 501-109, Hawaii Revised Statutes, is amended to read as follows:

"§501-109 Portion of registered fee. When a deed in fee is for part only of the land described in a certificate of title the assistant registrar shall also enter a new certificate [and issue an owner's duplicate] to the grantor for the part of the land not included in the deed. In every case of transfer the new certificate or certificates shall include all the land described in the original [and surrendered] certificate[s]; provided that no new certificate to a grantees of a part only of the land shall be invalid by reason of the failure of the assistant registrar to enter a new certificate to the grantor for the remaining unconveyed portion. In case the land described in a certificate of title is divided into lots, designated by numbers or letters, with measurements of all the bounds, and a plan of the land has been filed with the registrar and verified pursuant to section 501-85; and a certified copy thereof is filed with the assistant registrar bearing the same number as is given to the application, and which plan is filed separately by such number, apart from the registration book containing the original certificate, but which certificate has indorsed thereon a reference to the filed plan, when the registered owner makes a deed or transfer in fee of one or more of such lots, the assistant registrar may, instead of canceling the certificate and entering a new certificate to the grantor for the part of the land not included in the deed of transfer, enter on the original certificate [and on the owner's duplicate certificate] a memorandum of the deed of transfer, with a reference to the lot or lots thereby conveyed as designated on the plan, and a statement that the certificate is canceled as to the lot or lots. Every certificate with the memorandum is as effectual for the purpose of showing the grantor's title to the remainder of the land not conveyed as if the old certificate had been canceled and a new certificate of the land had been entered. This process may be repeated so long as there is convenient space upon the original certificate [and the owner's duplicate certificate] for making the memorandum of sale of lots."

SECTION 11. Section 501-117, Hawaii Revised Statutes, is amended to read as follows:

"§501-117 Procedure. Registration of a mortgage shall be made in the manner following: [the owner's duplicate certificate] the mortgage shall be presented to the assistant registrar [with the mortgage deed. The assistant registrar] who shall enter upon the original certificate of title [and also upon the owner's duplicate certificate] a memorandum of the purport of the mortgage [deed], the time of filing or recording, the document number of the [deed] mortgage, and shall sign the

memorandum. The assistant registrar shall also note upon the mortgage [deed] the time of filing or recording, and a reference to the volume and page of the registration book where it is registered.”

SECTION 12. Section 501-118, Hawaii Revised Statutes, is amended to read as follows:

“§501-118 Foreclosure. Mortgages of registered land may be foreclosed like mortgages of unregistered land.

In case of foreclosure by action, a certified copy of the final judgment of the court confirming the sale may be filed or recorded with the assistant registrar or the deputy after the time for appealing therefrom has expired and the purchaser shall thereupon be entitled to the entry of a new certificate.

In case of foreclosure by exercising the power of sale without a previous judgment the affidavit required by section 667-5 shall be filed or recorded and registered with the assistant registrar. The purchaser or the purchaser's assigns at the foreclosure sale may thereupon at any time present the deed under the power of sale to the assistant registrar for filing or recording and registration, and obtain a new certificate[, the owner's duplicate certificate being first delivered up and canceled]. Nothing in this chapter shall be construed to prevent the mortgagor or other person in interest from directly impeaching by action or otherwise, any foreclosure proceedings affecting registered land, prior to the entry of a new certificate of title.

After a new certificate of title has been entered no judgment recovered on the mortgage note for any balance due thereon shall operate to open the foreclosure or affect the title to registered land.”

SECTION 13. Section 501-131, Hawaii Revised Statutes, is amended to read as follows:

“§501-131 Transfer in trust; procedure. Whenever a deed or other instrument is filed or recorded for the purpose of transferring registered land in trust, or upon any equitable condition or limitation expressed therein, or for the purpose of creating or declaring a trust or other equitable interest in land without transfer, the particulars of the trust, condition, limitation, or other equitable interest shall not be entered on the certificate; but a memorandum thereon shall be entered by the words “in trust,” or “upon condition,” or other apt words, and by a reference by number to the instrument authorizing or creating the same. [A similar memorandum shall be made upon the duplicate certificate.] The assistant registrar shall note upon the original instrument creating or declaring the trust or other equitable interest a reference by number of the certificate of title to which it relates. If the instrument creating or declaring a trust or other equitable interest is already recorded in the bureau of conveyances or admitted to probate, or any order of a federal court creating or declaring a trust in real property has been made, a certified copy may be filed or recorded by the assistant registrar and registered.”

SECTION 14. Section 501-133, Hawaii Revised Statutes, is amended to read as follows:

“§501-133 New trustee. When a new trustee of registered land is appointed either by any court or otherwise, a new certificate may be entered upon presentation to the assistant registrar of a certified copy of the order or deed of appointment [and the surrender of the duplicate certificate.]”

SECTION 15. Section 501-137, Hawaii Revised Statutes, is repealed.

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SECTION 16. Section 501-155, Hawaii Revised Statutes, is amended to read as follows:

“§501-155 Judgment directing conveyance. Any judgment of a court of competent jurisdiction affecting title or rights in registered land, may be registered, whether the claim adjudicated was legal or equitable in nature. [The court entering the judgment upon application of the plaintiff may require the registered owner to deliver the registered owner's duplicate certificate to the plaintiff to be canceled or to have a memorandum entered upon it by the assistant registrar.] Every instrument necessary to give effect to the judgment and directed by the court to be executed, whether executed by a party or by some other person appointed by the court, shall be registered and shall have full force and effect to bind the land to be affected thereby. A judgment entered in lieu of directing a conveyance, and having the effect of a conveyance, shall be registered with like force and effect.”

SECTION 17. Section 501-156, Hawaii Revised Statutes, is amended to read as follows:

“§501-156 Partition. In an action for partition of registered land, after the entry of the final judgment of partition and the acceptance of the report of the commissioners, if any, a copy of the judgment and of the return of the commissioners, certified by the clerk or registrar, as the case may be, shall be filed or recorded and registered. Thereupon, in case the land is set off to the owners in severalty, any owner is entitled to have a certificate entered of the share set off to the owner in severalty[, and to receive an owner's duplicate therefor]. In case the land is ordered by the court to be sold, the purchaser or the purchaser's assigns are entitled to have a certificate of title entered on presenting the deed of the commissioners for registration; provided that any new certificate entered in pursuance of partition proceedings, whether by way of setoff or of sale, shall contain a reference to the final judgment of partition, and shall be conclusive as to the title to the same extent and against the same persons as the judgment is made conclusive by the statutes applicable thereto. Any person holding such certificate of title or a transfer thereof may petition the court at any time to cancel the memorandum relating to the judgment and the court, after notice and hearing, may grant the application. The certificate thereafter is conclusive in the same manner and to the same extent as other certificates of title.”

SECTION 18. Section 501-158, Hawaii Revised Statutes, is amended to read as follows:

“§501-158 Notice of bankruptcy proceedings. Whenever a petition in bankruptcy which contains or has indorsed upon it a reference to the number of the certificate of title of the land affected is filed or recorded within the State by or against the owner of registered land, the assistant registrar of the land court shall note the fact by the entry of an appropriate memorandum on the owner's certificate in the registration book. Thereafter, except where the owner's interest in the land cannot be affected by the bankruptcy proceedings, no conveyance by the owner respecting the registered land shall be accepted for registration unless the conveyance recites that it is made subject to the rights of the trustee in bankruptcy. A trustee in bankruptcy is entitled to the entry of a new certificate for the registered land upon presenting and filing or recording [the bankrupt's duplicate certificate of title together with] a certified copy of either the petition in bankruptcy (the schedules may be omitted), or the decree of adjudication of bankruptcy, or the order approving the trustee's bond; provided that the instrument contains or has indorsed upon it a

reference to the number of the certificate of title of the land affected. The new certificate shall state that it is entered to the trustee in bankruptcy.”

SECTION 19. Section 501-159, Hawaii Revised Statutes, is amended to read as follows:

“§501-159 Decree of discharge. Whenever proceedings in bankruptcy against a registered owner of which notice has been registered, are vacated, or when the court of bankruptcy orders a reconveyance of land to a bankrupt debtor, a certified copy of the order or decree may be filed or recorded and registered. If a new certificate has been entered to the trustee in bankruptcy, as registered owner, the debtor is entitled to the entry of a new certificate, [and the certificate of the trustee shall be surrendered].”

SECTION 20. Section 501-171, Hawaii Revised Statutes, is amended to read as follows:

“§501-171 Registration upon transfer by descent and devise. (a) When the owner of registered land, or of any estate or interest therein, dies, having devised the same by will, the person or persons entitled thereto may file or record with the assistant registrar of the land court [the duplicate certificate issued to the testator,] a correct statement of the full names of the devisees, the residence or post office address of each and their marital status and a reference to the number of the certificate of title of the land affected, a certified copy of the will, either a certified copy of the order of the circuit court admitting it to probate or a certified copy of the written statement of the registrar of the circuit court admitting it to informal probate, and a certified copy of an order of the circuit court determining the persons entitled to distribution of the registered land and directing or approving distribution, and thereupon the assistant registrar shall cancel the [duplicate] certificate issued to the testator, and [issue] enter a new [duplicate] certificate or certificates to the devisee or devisees. When the owner of registered land or of any estate or interest therein dies, not having devised the same, the persons entitled thereto by law may file or record with the assistant registrar [the duplicate certificate issued to the intestate,] a correct statement of the full names of the heirs, the residence or post office address of each, and their marital status, a certified copy of the judgment of the circuit court in an action determining the heirs, or a certified copy of an order of the circuit court in probate proceedings determining the persons entitled to distribution of the registered land and directing or approving distribution, and thereupon the assistant registrar shall cancel the [duplicate] certificate issued to the intestate, and [issue] enter a new [duplicate] certificate or certificates to the heir or heirs entitled thereto.

(b) No voluntary instrument or deed of a personal representative, assignee for the benefit of creditors, sheriff, master, commissioner, or other officer purporting to transfer or create a lien or charge upon any estate or interest of any devisee or heir in registered land or to authorize the same to be done, shall have any effect to accomplish that purpose until the title of the heir or devisee is registered as herein provided. An involuntary lien, charge, or lis pendens against the interest of a relict, heir, or devisee in the lands of a deceased registered owner, prior to the registration of the title of such relict, heir, or devisee, only can be obtained by filing or recording the proper papers with the assistant registrar as in other cases, and the assistant registrar making entry thereof as a memorial on the registered certificate of title of the deceased owner, giving the name and residence or post office address of the relict, heir, or devisee against whom the lien, charge, or lis pendens is to operate.”

SECTION 21. Section 501-181, Hawaii Revised Statutes, is deleted in its entirety.

SECTION 22. Section 501-191, Hawaii Revised Statutes, is deleted in its entirety.

SECTION 23. Section 501-196, Hawaii Revised Statutes, is amended to read as follows:

"§501-196 Alterations upon registration book prohibited when; court hearings; limitations. No erasure, alteration, or amendment shall be made upon the registration book after the entry of a certificate of title or of a memorandum thereon, and the attestation of the same by the registrar or an assistant registrar except by order of the court. Any registered owner or other person in interest may at any time apply by petition to the court, upon the ground that registered interests of any description, whether vested, contingent, expectant, or inchoate have terminated and ceased; or that new interests have arisen or been created which do not appear upon the certificate; or that any error, omission, or mistake was made in entering a certificate or any memorandum thereon[, or on any duplicate certificate]; or that the name of any person on the certificate has been changed; or that the registered owner has been married, or if registered as married that the marriage has been terminated; or that a corporation which owned registered land and has been dissolved has not conveyed the same within three years after its dissolution, or upon any other reasonable ground. The court shall have jurisdiction to hear and determine the petition after notice to all parties in interest and may order the entry of a new certificate, the entry or cancellation of a memorandum upon a certificate, or grant any other relief upon such terms and conditions, requiring security if necessary, as it may deem proper. This section shall not be construed to give the court authority to open the original decree of registration, and nothing shall be done or ordered by the court which impairs the title or other interest of a purchaser holding a certificate for value and in good faith, or the purchaser's heirs or assigns, without the purchaser's or their written consent.

Any petition filed under this section and all petitions and motions filed under this chapter after original registration shall be filed and entitled in the original case in which the decree of registration was entered."

SECTION 24. Section 501-218, Hawaii Revised Statutes, is amended to read as follows:

"§501-218 Schedule of fees. Except where otherwise provided the fees payable under this chapter are as follows:

- (1) For every application filed pursuant to this chapter, including indexing and recording the same, and transmitting to registrar, when filed with assistant registrar, \$3.
- (2) For every plan filed, \$1.
- (3) For indexing any instrument recorded while application for registration is pending, 25 cents.
- (4) 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 same as determined under section 501-211 when the land was not separately assessed.
- (5) 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 five hundred acres; an addition of 50 cents an acre or fraction thereof for all area over five 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.
- (6) For checking survey and map as to form and mathematical correctness but not on the ground, \$3 an hour.
 - (7) For approving subdivision of registered land, and for checking same as to form and mathematical correctness but not on the ground, \$3 an hour.
 - (8) For all services by a sheriff or other police officer under this chapter, the same fees as are now provided by law for like services.
 - (9) For each instrument affecting a title not reported in applicant's filed abstract of title, \$2.
 - (10) For filing an amended application, \$1.
 - (11) For each notice by publication, 25 cents.
 - (12) For entering any general default, \$1.
 - (13) For filing any answer, \$1, to be paid by the party filing the same.
 - (14) For every subpoena, \$1.
 - (15) For swearing each witness, 10 cents.
 - (16) For entering any discontinuance, \$1.
 - (17) For filing notice of appeal, \$30.
 - (18) For entry of order dismissing application, or decree of registration, and sending memorandum to assistant registrar, \$1.
 - (19) For copy of decree of registration, \$1.
 - (20) For entry of original certificate of title [and issuing owner's duplicate certificate], or for making and entering a new certificate of title [including issue of one owner's duplicate], \$25 if contained within four pages. For each additional page or fraction thereof, \$1.
 - (21) For [each owner's duplicate certificate after the first, \$10] a certified copy of any certificate of title, \$2 if contained within [four pages.] one page. For each additional page or fraction thereof, \$1.
 - (22) For the registration of every instrument, including entering, indexing, filing or recording, attesting registration, and making and attesting memorandum on certificates not in excess of four, \$10, except where herein otherwise provided, and \$1 for each additional memorandum on certificates in excess of four required by any one instrument.
 - (23) For the certification of a copy of any instrument, the same fees as are provided by section 502-25.
 - (24) For filing or recording and registering an adverse claim, \$3.
 - (25) For registration of an order for a suggestion of death, fact of marriage, divorce, subdivision, or notice of issue of an order in bankruptcy, \$10.
 - (26) For filing or recording any petition after original registration, \$1.
 - (27) For filing or recording any order after original registration, \$1.
 - (28) 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.
 - (29) For any application made by or in the name of the State, or any political subdivision thereof, any proceedings had upon such application or any dealing with registered land by the State, or any political subdivision thereof, as owner, no fees shall be charged."

SECTION 25. Chapter 501, Hawaii Revised Statutes, is amended to add an additional section as follows:

"§501- Outstanding owner's duplicate certificates. No owner's duplicate certificates of title shall be issued after the effective date of this Act, whether

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the deed or other instrument upon which such would have been based was recorded before or after such effective date. Whenever a duplicate has been issued and is still outstanding, the assistant registrar shall require that the same be presented with any deed or other voluntary instrument to be filed or recorded affecting the land described therein. The assistant registrar shall thereupon cancel such owner's duplicate. The foregoing requirements for presenting such owner's duplicate certificate shall not apply if there shall be or has been presented to the assistant registrar a sworn statement by the registered owner of the subject land that such owner's duplicate has been lost or destroyed. The assistant registrar shall keep a record of such canceled owner's duplicate certificates and of such affidavits.

All references in this chapter to the holder, receiver or taker of a certificate of title, or similar references, shall refer to the party registered as the owner in the certificate of title on file in the office of the assistant registrar. In case of a variance between the outstanding owner's duplicate certificate and the original certificate the original shall prevail."

SECTION 26. Section 501-107, Hawaii Revised Statutes, is amended to read as follows:

"§501-107 Entry record; duplicates and certified copies. The assistant registrar shall keep a record in which shall be entered all deeds and other voluntary instruments, and all copies of writs or other process filed or recorded with the assistant registrar relating to registered land. The assistant registrar shall note in the record the date of reception of all instruments. The instruments shall be stamped with the date, hour, and minute of reception and shall be regarded as registered from the date and time so noted, and the memorandum of each instrument when made on the certificate of title to which it refers shall bear the same date.

Every deed or other instrument, whether voluntary or involuntary, so filed or recorded with the registrar or assistant registrar shall be numbered and indexed, and indorsed with a reference to the proper certificate of title. All records relating to registered land in the office of the registrar or of the assistant registrar shall be open to the public in the same manner as probate records are open, subject to such reasonable regulations as the registrar, under the direction of the court, may make.

[Duplicates of all deeds and voluntary instruments, filed or recorded and registered may be presented with the originals, and shall be attested and sealed by the registrar or the assistant registrar and indorsed with the file number and other memoranda on the originals, and may be taken away by the person presenting the same. No more than two duplicates of such deeds and instruments shall be certified by the registrar without charge, and copies in excess thereof shall be certified upon the payment of 25 cents per page.]

Certified copies of all instruments filed or recorded and registered may also be obtained at any time on payment of the assistant registrar's fees."

SECTION 27. Section 501-221, Hawaii Revised Statutes, is deleted in its entirety.

SECTION 28. Statutory material to be repealed is bracketed. New statutory material is underscored.²

SECTION 29. This Act shall take effect upon its approval.

(Approved June 14, 1988.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

ACT 347

S.B. NO. 2696

A Bill for an Act Relating to the State Board on Geographic Names.

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

SECTION 1. Section 4E-1, Hawaii Revised Statutes, is amended to read as follows:

"[§4E-1] State board on geographic names. There shall be in the [department of land and natural resources] office of state planning a state board on geographic names, consisting of the following persons or their representatives: the [chairman] chairperson of the board of land and natural resources, the chairperson of the office of Hawaiian affairs, the [chairman] chairperson of the Hawaiian homes commission, the director of the [department of business and economic development] office of state planning, the president of the University of Hawaii, the state land surveyor, and the director of the Bernice P. Bishop Museum. The members of the board shall serve without compensation.

[The provisions of section] Section 26-34 shall not [be applicable] apply to this board."

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

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

(Approved June 14, 1988.)

ACT 348

S.B. NO. 2758

A Bill for an Act Relating to the Department of the Attorney General.

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

SECTION 1. Chapter 28, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§28- Administrative services manager; appointment and duties. The attorney general may appoint and, at the attorney general's pleasure, dismiss an administrative services manager of the department of the attorney general who shall generally assist the attorney general, as the attorney general may require, in the performance of the administrative and managerial duties of the attorney general that are not required to be performed by an attorney. The administrative services manager shall be appointed without regard to chapters 76 and 77, need not be an attorney, and shall hold no other public or private office or employment. Section 26-53 shall not apply to the administrative services manager of the department of the attorney general."

SECTION 2. Section 76-16, Hawaii Revised Statutes, is amended to read as follows:

"§76-16 Civil service and exemptions. The civil service to which this part applies comprises all positions in the State now existing or hereafter established and embraces 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 which are required by state or federal laws or regulations, or orders of the national guard, to be filled from such commissioned or enlisted personnel;
- (2) Positions filled by persons employed by contract where the director of personnel services has certified that the service is special or unique, is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform such service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions of a temporary nature needed in the public interest where the need for the same does not exceed one year, but before any person may be employed to render such temporary service the director shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable;
- (4) Positions filled by the legislature or by either house or any committee thereof;
- (5) Employees in the office of the 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, jury commissioners, 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; 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, and one law clerk for each judge of the circuit court and the administrative judge of the district court of the first circuit (provided that the law clerk for a judge of the circuit court shall be employed in lieu of and shall have the powers and duties of a court officer and bailiff under section 606-14); sheriff, first deputy sheriff, and second deputy sheriff; and one private secretary for 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, and law clerks;
- (11) Teachers, principals, vice-principals, district superintendents, chief deputy superintendents, other certificated personnel, and not more than twenty noncertificated administrative, professional, and technical personnel not engaged in instructional work in the department of education, and 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, for which projects federal funds are available;
- (13) Positions filled by inmates, kokuas, and patients of state institutions, and persons with severe physical or mental handicaps participating on the work experience training programs, students, and positions filled through federally funded programs which provide temporary public service employment such as the federal Comprehensive Employment and Training Act of 1973;
- (14) A custodian or guide at Iolani Palace, 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 such other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; one additional deputy to administer all hospitals within the jurisdiction of the department of health; one additional deputy in the department of health to administer all environmental health programs within the jurisdiction of the department; one additional deputy in the department of human services either in charge of welfare or such other functions within the department as may be assigned by the director of human services; one additional deputy in the department of health in charge of administration or such other functions within the department as may be assigned by the director of health with the approval of the governor; one additional deputy in the department of business and economic development to perform the duties assigned by the director of business and economic development and approved by the governor; one additional deputy in the department of budget and finance to perform the duties assigned by the director of finance and approved by the governor; one additional deputy within the department of land and natural resources to perform the duties to be assigned by the chairperson of the board of land and natural resources; and an administrative assistant to the superintendent of education;
- (17) Positions specifically exempted from this part by any other law; provided that 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 manpower 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 lunch periods and in the cleaning of classrooms after school hours on a less than half-time basis;

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- (21) Employees hired under the tenant hire program of the Hawaii housing authority; provided that no more than twenty-six per cent of the authority's work force 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 which require hiring of nutrition program assistants who live in the areas they serve; and
- (23) Positions filled by the severely handicapped persons who are certified by the state vocational rehabilitation office that they are able to safely perform the duties of the positions.

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 3. New statutory material is underscored.¹

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

(Approved June 14, 1988.)

Note

- 1. Edited pursuant to HRS §23G-16.5.

ACT 349

S.B. NO. 2884

A Bill for an Act Relating to the Tourism Training Council.

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 TOURISM TRAINING COUNCIL

§ -1 Findings and purpose. The legislature finds that the visitor industry is a mainstay of Hawaii's economy, generating approximately 176,000 jobs both directly in hotels, food and beverage establishments, gift and souvenir shops, air and ground transportation companies, and entertainment, and indirectly in other businesses. To maintain the quality of Hawaii's visitor industry and to meet the competition from other tourist destination areas within and outside of the United States, the visitor industry must have available a supply of quality workers. Hawaii's tourist industry workers must also have the opportunity for employment stability, upward mobility, and career advancement in the visitor industry. The legislature recognizes that quality training programs and projects to address imbalances caused by shifts between labor shortages and surpluses are critical to the present and future vitality of the State's visitor industry.

The legislature also finds that the tourism training council appointed by the governor in 1985 provides the essential human resources planning component that has been missing from the State's economic development efforts, in the visitor industry. The legislature further finds that statutory recognition of the council will provide a stable coordinating body to implement the State's long-range plans,

monitor the training programs, and fund innovative programs to address visitor industry labor needs. The purpose of this chapter, therefore, is to statutorily establish a tourism training council to monitor and coordinate government and industry activities and programs that develop and improve the quality of the visitor industry workforce and to encourage opportunities for upgrading and career development for present and future visitor industry employees.

§ -2 Tourism training council; establishment; composition. There is established within the department of labor and industrial relations a tourism training council. The members of the council shall be appointed by the governor for staggered terms of four years in accordance with section 26-34. Each term shall commence on July 1 of the year of appointment. The council shall consist of at least ten but not more than fifteen members representing organizations for visitor industry management; labor unions representing visitor industry workers; public and private visitor industry education and training programs; and the state commission on employment and human resources. The director of labor and industrial relations shall serve as an ex officio member. The council shall elect a chairperson from among its members. The council members shall serve without compensation but shall be allowed personal expenses, at the rates specified in section 78-15, while attending council meetings or while on official business when such council meetings or official business requires a member to leave the island upon which the member resides.

§ -3 Functions and duties of council. The tourism training council shall:

- (1) Advise and make recommendations to the governor, legislature, and the visitor industry regarding visitor industry employment and visitor industry training programs;
- (2) Assess the status of visitor industry employment and visitor industry training programs and determine their appropriateness and adequacy for the needs of the industry and current and future employees;
- (3) Develop and test innovative and evolving models to meet the labor needs of the visitor industry through research, demonstration projects, and evaluation;
- (4) Plan and implement the transfer of proven projects to appropriate agencies for institutionalization;
- (5) Act as the State's clearinghouse for all visitor industry training programs by obtaining information and making recommendations as necessary to the University of Hawaii, department of education, department of business and economic development, and department of commerce and consumer affairs on new training programs or on the modification or termination of existing programs; and
- (6) Advocate the improvement of knowledge and skills necessary for visitor industry training programs.

§ -4 Contracts. The tourism training council may make, execute, enter into, amend, supplement, and carry out contracts, and all other instruments the council finds are necessary or convenient for the fulfillment of its functions and duties.

§ -5 Staff. The tourism training council may appoint such staff as it deems necessary to carry out its functions and duties. The staff of the council shall report to the executive director of the commission on employment and human resources.

§ -6 Annual report. The tourism training council shall submit an annual report of its activities and recommendations to the governor and the legislature at least twenty days prior to the convening of every regular session of the legislature.

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§ -7 Program review. The legislature, during the regular session of 1993, shall review the tourism training council operations to assess the need for continuation of the council."

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$78,000 or so much thereof as may be necessary for fiscal year 1988-1989, to the department of labor and industrial relations/tourism training council to be used to develop and expand vocational education and training programs for the visitor industry at the community colleges of the University of Hawaii system. These programs may include, but not be limited to, expanded offerings through existing vocational education programs in travel industry management as well as new career development programs. The programs funded by this appropriation shall be developed in consultation with government and private industry to meet the statewide needs of the visitor industry. The sum appropriated shall be expended by the department of labor and industrial relations for the purposes of this Act.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$78,000, or so much thereof as may be necessary for fiscal year 1988-1989, to the department of labor and industrial relations/tourism training council to be used to develop and expand management and professional level programs on the outer islands through the School of Travel Industry Management. These programs include, but not be limited to, expanded offerings through existing professional programs in travel industry management as well as new programs at the management and professional levels in consultation with government and private industry to meet the statewide needs of the visitor industry. The sum appropriated shall be expended by the department of labor and industrial relations for the purposes of this Act.

SECTION 4. This Act shall take effect upon its approval; provided that sections 2 and 3 of this Act shall take effect on July 1, 1988.

(Approved June 14, 1988.)

ACT 350

S.B. NO. 3000

A Bill for an Act Relating to Intoxicating Liquor.

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

SECTION 1. Section 281-78, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) At no time under any circumstances, except as permitted in section 291-3.4, shall any liquor:

- (1) Be consumed on any public highway or any public sidewalk;
- (2) Be sold or furnished by any licensee to:
 - (A) Any minor,
 - (B) Any person at the time under the influence of liquor,
 - (C) Any person known to the licensee to be addicted to the excessive use of intoxicating liquor, or
 - (D) Any person for consumption in any vehicle [on the licensed premises;] which is licensed to travel on public highways;

Provided that the sale of liquor to a minor shall not be deemed to be a violation of this subsection if, in making the sale the licensee was

- misled by the appearance of the minor and the attending circumstances into honestly believing that such minor was of legal age and the licensee acted in good faith, and it shall be incumbent upon the licensee to prove that the licensee so acted in good faith;
- (3) Be consumed on the premises of a licensee or on any premises connected therewith, whether there purchased or not, except as permitted by the terms of the license;
 - (4) Be sold or served by any person eighteen to twenty years of age except in licensed establishments where selling or serving the intoxicating liquor is part of the minor's employment, and where there is proper supervision of such minor employees to ensure that the minors shall not consume the intoxicating liquor;
 - (5) Be sold or served by any person below the age of eighteen upon any licensed premises, except in such individually specified licensed establishments found to be otherwise suitable by the liquor commission in which an approved program of job training and employment for dining room waiters and waitresses is being conducted in cooperation with the University of Hawaii, the state community college system, or a federally sponsored manpower development and training program, under arrangements which ensure proper control and supervision of employees."

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

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

(Approved June 14, 1988.)

ACT 351

S.B. NO. 3042

A Bill for an Act Making an Appropriation for a Demonstration Shrimp Project with the Sugar Industry.

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

SECTION 1. **Findings and purpose.** The legislature finds that the sugar industry is the largest agricultural industry in Hawaii and is a vital component of the State's economic base. The legislature further finds that the adverse effects of losing this industry would be catastrophic to the State. The legislature also finds that the sugar industry continues to experience adverse economic conditions, and it is in the public interest to continue the measures enacted in prior years to assist and save the sugar industry.

The purpose of this Act is to provide funds for a demonstration shrimp project at appropriate sites in Hawaii, in conjunction with the United States Department of Agriculture marine shrimp project and thereby demonstrate the economic viability of shrimp production as a by-product of the existing sugar industry.

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 1988-1989, for a demonstration shrimp facility.

SECTION 3. The sum appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

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SECTION 4. This Act shall take effect on July 1, 1988.

(Approved June 14, 1988.)

ACT 352

S.B. NO. 3166

A Bill for an Act Relating to State Government.

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

SECTION 1. Chapter 37, part II, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§37- 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 conformity with statewide planning goals and objectives and executive priorities, and report its findings and recommendations to the governor in order that such 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 2. Section 205-4, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Any other provisions of the law to the contrary notwithstanding, agencies and persons may intervene in the proceedings in accordance with this subsection.

- (1) The petitioner, the [department of business and economic development] office of state planning, and the county planning department shall in every case appear as parties and make recommendations relative to the proposed boundary change.
- (2) All departments and agencies of the State and of the county in which the land is situated shall be admitted as parties upon timely application for intervention.
- (3) All persons who have some property interest in the land, who lawfully reside on the land, or who otherwise can demonstrate that they will be so directly and immediately affected by the proposed change that their interest in the proceeding is clearly distinguishable from that of the general public shall be admitted as parties upon timely application for intervention.
- (4) All other persons may apply to the commission for leave to intervene as parties. Leave to intervene shall be freely granted, provided that the commission or its hearing officer if one is appointed may deny an application to intervene when in the commission's or hearing officer's sound discretion it appears that: (A) the position of the applicant for intervention concerning the proposed change is substantially the same as the position of a party already admitted to the proceeding; and (B) the admission of additional parties will render the proceedings inefficient and unmanageable. A person whose application to intervene is

denied may appeal such denial to the circuit court pursuant to section 91-14.

- (5) The commission shall pursuant to chapter 91 adopt rules governing the intervention of agencies and persons under this subsection. Such rules shall without limitation establish: (A) the information to be set forth in any application for intervention; (B) time limits within which such applications shall be filed; and (C) reasonable filing fees to accompany such applications.”

SECTION 3. Section 205-18, Hawaii Revised Statutes, is amended to read as follows:

“§205-18 Periodic review of districts. The [department of business and economic development] office of state planning shall undertake a review of the classification and districting of all lands in the State, within five years from December 31, 1985, and every fifth year thereafter. The [department,] office, in its five-year boundary review, shall focus its efforts on reviewing the Hawaii state plan, county general plans, and county development and community plans. Upon completion of the five-year boundary review, the [department] office shall submit a report of the findings to the commission. The [department] office may initiate state land use boundary amendments which it deems appropriate to conform to these plans. The [department] office may seek assistance of appropriate state and county agencies and may employ consultants and undertake studies in making this review.”

SECTION 4. Section 205A-1, Hawaii Revised Statutes, is amended by amending the definition of “lead agency” to read:

““Lead agency” means the [department of business and economic development;] office of state planning.“

SECTION 5. Section 225M-2, Hawaii Revised Statutes, is amended to read as follows:

“[§225M-2] Office of state planning, establishment; responsibilities.

(a) There is established within the office of the governor an office of state planning. The head of the office shall be known as the director of the office of state planning, hereinafter referred to as director. The director shall have: training in the field of urban or regional planning, public administration, or other related fields; experience in programs or services related to governmental planning; and experience in a supervisory, consultative, or administrative capacity. The director shall be appointed by the governor without regard to chapters 76 and 77, and shall be compensated at a salary level set by the governor. The director shall be included in any benefit program generally applicable to the officers and employees of the State. The director shall retain such staff as may be necessary for the purposes of this chapter, in conformity with chapters 76 and 77.

(b) The office of state 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) 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) Population planning. Planning for the management of the State's population size, rate of growth, and distribution through research, coordination, and technical assistance to state and county agencies.
- (4) Intergovernmental 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; and
 - (B) Formulating mechanisms to simplify, streamline, or coordinate interagency development and regulatory processes.
- (5) Collection and dissemination of information. Collecting, analyzing, maintaining, and disseminating data and information to further effective state planning, policy analysis[,] and development, and delivery of government services by:
 - (A) Assembling, organizing, evaluating, and classifying existing data and performing necessary basic research in order to provide a common data base for governmental planning; and
 - (B) Maintaining a centralized depository of state and national planning references.
- (6) Capital investment planning.
 - (A) In cooperation with the director of finance, establishing guidelines and criteria for capital [expenditures] improvement project appropriation proposals consistent with statewide planning goals and objectives and executive priorities; and
 - (B) Reviewing, prioritizing, and evaluating capital improvement projects proposed or undertaken by state and county agencies to assure conformity with statewide planning goals and objectives and executive priorities, and reporting its findings and recommendations to the governor and the legislature relative to the allocation of funds;
 - (C) Reviewing, analyzing, and reporting on state and county capital improvement projects which extend over wide geographical areas of the State and which have significant impacts upon economic

- development, land use, environmental quality, construction employment and executive policy directions;
- (D) Directing and coordinating the development of the statewide capital improvement program expenditure and priorities plan, and reviewing and evaluating capital expenditure plans of the state departments; and
- (E) Reviewing, in cooperation with the various state departments, the general and development plans of each county to identify statewide interests and to determine state capital improvement project needs of the plans; and
- (F) Submitting to the legislature a biennial report identifying statewide interests, capital improvement project needs, capital improvement priorities and the capital improvement projects that the state can reasonably be expected to finance over the period of the six-year capital improvement project forecast.]
- (B) Reviewing, in cooperation with the various state departments, the general and development plans of each county to identify statewide interests and to determine state capital improvement project needs of the plans.

In furtherance of these responsibilities, before each regular session of the legislature, the director of finance shall supply the governor with copies of the various capital improvement budget requests [for capital expenditures as received from] submitted by state agencies for inclusion in the proposed state executive budget. The director of finance shall also supply the governor with a list of proposed public works to be [constructed] financed during the succeeding six years. Each county shall similarly provide the governor with a list of necessary capital improvements [to be constructed in the respective counties] it expects to have financed during the succeeding six years. In preparing the lists, the counties shall indicate the contemplated means of financing each project. The office of state planning shall review the various capital improvement budget requests [for capital expenditures and improvements] in relation to chapter 226 and any goals and objectives which the governor may prescribe. The office of state planning shall advise the governor on [capital expenditure] the various capital improvement budget requests and shall assist the governor as directed in [the implementation of those projects that are authorized and funded.] formulating the capital improvements program.

- (7) 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.
- (8) 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.”

SECTION 6. Chapter 81, Hawaii Revised Statutes, is amended by repealing the subdivision heading of “Institute for Management and Analysis”.

[“**INSTITUTE FOR MANAGEMENT AND ANALYSIS**”]

SECTION 7. Section 81-11, Hawaii Revised Statutes, is repealed.

SECTION 8. Section 81-12, Hawaii Revised Statutes, is repealed.

SECTION 9. Section 81-13, Hawaii Revised Statutes, is repealed.

SECTION 10. Section 81-14, Hawaii Revised Statutes, is repealed.

SECTION 11. Section 81-15, Hawaii Revised Statutes, is repealed.

SECTION 12. Section 81-17, Hawaii Revised Statutes, is repealed.

SECTION 13. Transfer of personnel. Except as provided in this section, all officers and employees whose activities are transferred by this Act, including but not limited to persons employed at the land use division and the coastal zone management program of the department of business and economic development, shall be transferred with those activities 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 transferred under this section shall suffer any loss of civil service status, 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 privilege and without the necessity of examination; provided that such an officer or employee possesses the minimum qualifications for the position to which transferred or appointed.

In the event that 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.

SECTION 14. Transfer of records, equipment, authorization, and other property. All appropriate records, equipment, files, supplies, contracts, books, papers, documents, maps, authorizations, and other property heretofore made, used, acquired, or held in conjunction with activities transferred by this Act shall be transferred with the activities to which they relate.

SECTION 15. Transfer of funds. All funds appropriated for the 1987-1989 fiscal biennium, directly or indirectly, relating to the activities transferred under this Act shall be appropriately transferred to the office of the governor with the activities to which they relate.

SECTION 16. Federal aid, contract and bond obligations; not impaired. It is the intent of this Act to neither jeopardize the receipt of any federal aid nor

impair the obligation of the State or agency thereof to persons with which it has existing contracts or to the holders of any bond issued by the State or by any such agency, and to the extent, and only to the extent, necessary to effectuate this intent, the governor may modify the strict provisions of this Act, but shall promptly report any such modification with reasons therefor to the legislature at its next session thereafter for review by the legislature.

SECTION 17. Conflict with provisions of this Act. All laws and parts of laws heretofore enacted which are in conflict with the provisions of this Act are hereby amended to conform to this Act. All acts passed during this Regular Session of 1987, whether enacted before or after the passage of this Act, shall be amended to conform to this Act, unless such acts specifically provide that this Act is being amended.

SECTION 18. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 19. This Act shall take effect upon its approval.

(Approved June 14, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 353

S.B. NO. 3219

A Bill for an Act Relating to Advertisement for Bids Required; Exceptions.

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

SECTION 1. Section 103-22, Hawaii Revised Statutes, is amended to read as follows:

"§103-22 Advertisement for bids required; exceptions. (a) No expenditure of public money[,] where the sum to be expended is \$8,000 or more shall be made except under contract let after public advertisement for sealed tenders, in the manner provided by law, except:

- (1) [salaries] Salaries or pay of officers or employees[, or];
- (2) [permanent] Permanent settlements, subsidies or other claims or objects for which a fixed sum must be paid by law[, or];
- (3) [for] For other purposes which do not admit of competition[, or];
- (4) [for] For the purchase of materials or supplies from any other department, bureau, organization, or municipal or political subdivision of the federal, state, municipal or county governments, other than University of Hawaii bookstores[, or];
- (5) [for] For the performance of public work or contracts by any other such department, bureau, organization, or municipal or political subdivision of the federal, state, municipal or county governments[, where the sum to be expended is \$8,000 or more shall be made except under contract let after public advertisement for sealed tenders, in the manner provided by law.]; or
- (6) Emergency replacement of existing medical diagnostic and therapeutic equipment for the county/state hospitals division of the department of health.

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(b) In all cases of expenditures of public money that is more than \$4,000 but less than \$8,000, a call for informal bids shall be published at least once in a newspaper of general circulation printed and published within the State; provided that:

- (1) In the case of public works or repairs and maintenance of buildings, roads and other site improvements where the expenditure is more than \$4,000 but less than \$15,000, a call for informal bids shall be published at least once in a newspaper of general circulation printed and published within the State; and
- (2) In the case of the repair of publicly owned or leased heavy equipment, automotive equipment, and sewage treatment plants where the expenditure is more than \$4,000 but less than \$10,000, the expenditure may be made without public advertisement for sealed tenders or a call for formal¹ bids.

(c) When expenditures of public money are for the purchase of medical diagnostic or therapeutic equipment for the county/state hospitals division of the department of health and this section requires a bid, the department of health need not adjust specifications for the purpose of qualifying more than one vendor and shall not be bound to accept a low bid which is inconsistent with the needs of the county/state hospital division.

(d) No expenditures for public purposes shall be so divided or parceled as to defeat or evade this section."

SECTION 2. The department of accounting and general services (DAGS) and the department of health (DOH) shall, on or before January 1, 1989, submit reports to the legislature which explain what, if any, special needs or problems make the bidding process unduly burdensome for the county/state hospitals division and what, if any, amendments to DAGS procedures or to the statutes could reasonably be expected to remedy the problems and meet the needs. DAGS and DOH shall, on or before January 1, 1993, submit reports to the legislature which analyze the experience of the county/state hospitals division and quantify the time saved by avoiding the bidding process and the effect of non-bid acquisition on acquisition costs. Information concerning private hospitals and public hospitals in other jurisdictions may be included in either set of studies.

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

SECTION 4. This Act shall take effect upon approval and subsection (c) shall be repealed as of June 30, 1993.

(Approved June 14, 1988.)

Note

1. Prior to amendment, the word "informal" appeared here in L 1987, c 229, §1.

ACT 354

S.B. NO. 3169

A Bill for an Act Relating to the Compensation of Certain Persons Under the Criminal Injuries Compensation Act and Providing Appropriations Therefor.

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 \$557,809.91, or so much thereof as may be necessary for

fiscal year 1988-1989 for the purpose of compensating certain persons or their providers of services, pursuant to chapter 351, Hawaii Revised Statutes.

SECTION 2. The sums appropriated in Section 1 of this Act shall be deposited in the criminal injuries compensation fund to be used for payments as authorized by the criminal injuries compensation commission.

SECTION 3. All unexpended and unencumbered balances of the appropriations made by this Act as of the close of business on June 30, 1989, shall lapse into the general fund of the State.

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

(Approved June 14, 1988.)

ACT 355

H.B. NO. 2027

A Bill for an Act Relating to Business and Economic Development.

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

SECTION 1. Activities related to space exploration and development offer unique opportunities for the State to broaden and diversify its economic base. Hawaii is an ideal location for such activities because of its location midway between the United States and Asia and the nations of the South Pacific, its warm climate allowing year-round operations, and because of the many space-related programs which already exist in the State. It has been reported that a "narrow window of opportunity" exists; and therefore, there is an acute need to move the development of Hawaii's space program ahead as quickly as possible. For this reason, it is urgent that an office of space industry be established, to develop, coordinate, and monitor the progress of a strategic plan for Hawaii's space industry.

SECTION 2. Chapter 201, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . OFFICE OF SPACE INDUSTRY

§201- Definitions. As used in this part:

"Director" means the director of the office of space industry.

"Office" means the office of space industry.

§201- Office of space industry; establishment. (a) There is established an office of space industry in the department of business and economic development.

(b) The director shall have experience, knowledge, and expertise in space-related activities and development. The director shall be nominated and appointed by the governor without regard to chapters 76 and 77.

(c) The director shall hire staff necessary to carry out the purposes of this chapter.

(d) The director and employees of the office shall be included in any benefit program generally applicable to the officers and employees of the State.

§201- Powers and duties of director. In addition to any other powers and duties provided in this chapter, the director shall:

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- (1) Oversee, supervise, and direct the planning, evaluation, and coordination of space-related activities in the State;
- (2) Initiate discussions for private and international involvement in space-related activities in the State;
- (3) Review the effectiveness of present publications, pamphlets, and other sources of information about Hawaii's space-related activities produced and distributed by the State;
- (4) Have the office serve as a clearinghouse for information on Hawaii's space-related activities, to include but not be limited to, those of the University of Hawaii and federal agencies located in Hawaii;
- (5) Develop a business plan for a commercial space facility and for pursuing appropriate business partners;
- (6) Target existing businesses which can provide products or services of importance to the space industry to support the expansion of such businesses in Hawaii;
- (7) Increase contact and maintain liaison with the National Aeronautics and Space Administration and other federal agencies and facilities;
- (8) Institute procedures by which citizen input on proposed space facilities development shall be invited at the earliest possible time in the development process;
- (9) Develop, in consultation with the office of Hawaiian affairs and other Hawaiian organizations, appropriate mechanisms for the consideration and protection of Hawaiian cultural values and resources, religious rights, and traditional and customary uses which may be affected by space-related activities;
- (10) Adopt, amend, and repeal rules pursuant to chapter 91 necessary to carry out this part;
- (11) Contract for such services as may be necessary for the purposes of this part; and
- (12) Do all other things necessary or proper to carry out the purposes of this part.

§201- Communities near space facilities; residents. The director shall take steps to ensure that residents of communities surrounding space facilities are provided education and training pertaining to jobs created by space-related activites. The director shall ensure that space industry companies in the State are committed to hiring community residents for jobs for which they hold appropriate qualifications and providing goods and services for the enhancement of community life."

SECTION 3. This Act shall take effect on July 1, 1988.

(Approved June 14, 1988.)

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H.B. NO. 2096

A Bill for an Act Relating to the Aloha Tower Development Corporation.

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

SECTION 1. Section 206J-1, Hawaii Revised Statutes, is amended to read as follows:

“§206J-1 Findings and purpose. The legislature finds that the area in downtown Honolulu on the waterfront, [bounded by piers 8, 9, 10, and 11 and

Nimitz Highway,] including the Hale Awa Ku Moku Building and Irwin Memorial Park, hereinafter called the Aloha Tower complex, is one of the most valuable properties in downtown Honolulu and that certain portions of this area should be redeveloped, renovated, or improved to better serve the economic, maritime, and recreational needs of the people of Hawaii.

The legislature further finds that the Aloha Tower complex still serves a vital maritime function that must be maintained to insure adequacy and viability for existing and future maritime activities.

The purpose of this chapter is to establish a new public body corporate and politic, public instrumentality, and agency of the State for the purpose of undertaking the redevelopment of the Aloha Tower complex to strengthen the international economic base of the community in trade activities, to enhance the beautification of the waterfront, and in conjunction with the department of transportation, to better serve modern maritime uses, and to provide for public access and use of the waterfront property. Properly developed, the Aloha Tower complex will further serve as a stimulant to the commercial activities of the downtown business community and help transform the waterfront into a "people place."

The legislature finds and determines that the purpose of this chapter is in the public interest and constitutes a valid public purpose."

SECTION 2. Section 206J-2, Hawaii Revised Statutes, is amended by amending the definition of "project" to read:

"Project" means [a public undertaking, improvement, or system consisting of a work or improvement including] an undertaking of work or improvement of public or private real or personal property or any interest therein, developed, acquired, constructed, reconstructed, rehabilitated, improved, altered, or repaired by the development corporation, by itself or in conjunction with qualified persons, and including public facilities and, any law to the contrary notwithstanding, facilities for and functionally related and subordinate to maritime purposes."

SECTION 3. Section 206J-3, Hawaii Revised Statutes, is amended to read as follows:

"§206J-3 Aloha Tower complex; designated boundaries. [Being portions of Honolulu Harbor (Governor's Executive Order No. 1793), Irwin Memorial Park (Governor's Executive Order No. 472), Fort Street and Ala Moana

Being also portions of:

L. P. 8489 L.C.Aw. 11219 to the Hawaiian Government, Sea Boundary of "Kaakaukukui" R. P. 4483 L.C.Aw. 7712 Apana 6 No. 1 to M. Kekuanaoa no V. Kamamalu, R. P. 4532 L.C.Aw. 9971 Parts 1 and 2 to W.P. Leleiohoku and L.C.Aw. 784 Parts 1 and 2 to James Robinson, Exchange Deed: Minister of Interior to Samuel C. Allen dated December 21, 1897 and recorded in Liber 173, Pages 432-434, Grant 1753 No. 2 to William Miller, Land Court Application 787 Land situated at Kaakaukukui and Waikahalulu, Honolulu, Oahu, Hawaii

Beginning at the most Northerly corner of this piece of land, on the West side of the present Nimitz Highway (Honolulu-Pearl Harbor Road), the coordinates of said point of beginning referred to Government Survey Triangulation Station "Punchbowl" being 1,160.55 feet South and 5,210.55¹ feet West, thence running by azimuths measured clockwise from true South:

- | | |
|------------------|---|
| 1. 6° 00' | 1.45 feet along the West side of the present Nimitz
Highway; |
| 2. 276° 00' | 5.50 feet along same; |

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3. $6^{\circ} 00'$ 28.00 feet along same;
4. $6^{\circ} 00'$ 50.00 feet along same;
5. $6^{\circ} 00'$ 241.10 feet along same;
6. $6^{\circ} 00'$ 35.00 feet along same;
7. $331^{\circ} 06'50''$ 166.90 feet along the Westerly side of the present Nimitz Highway;
8. $329^{\circ} 35'$ 226.07 feet along the Westerly side of the present Nimitz Highway;
9. Thence along same on a curve to the right with a radius of 72.29 feet, the chord azimuth and distance being $11^{\circ} 12' 30''$ 96.04 feet;
10. $52^{\circ} 50'$ 120.37 feet along the Northerly side of Bishop Street;
11. $52^{\circ} 50'$ 69.73 feet along same;
12. $52^{\circ} 50'$ 110.32 feet across Ala Moana;
13. $149^{\circ} 35'$ 29.33 feet along the remainder of Honolulu Harbor (Governor's Executive Order No. 1793), the true azimuths and distances to a "+" cut on concrete (found and adopted) being (a) $149^{\circ} 35' 2.36$ feet and (b) $239^{\circ} 35' 2.00$ feet;
14. $59^{\circ} 34'$ 594.52 feet along same;
15. Thence along same on a curve to the right with a radius of 12.98 feet, the chord azimuth and distance being $116^{\circ} 17' 45''$ 21.70 feet;
16. $173^{\circ} 01' 30''$ 608.15 feet along the remainder of Honolulu Harbor (Governor's Executive Order No. 1793);
17. $228^{\circ} 25'$ 495.96 feet along same;
18. $318^{\circ} 25'$ 0.94 of a foot along same;
19. $228^{\circ} 25'$ 459.72 feet along same to the point of beginning and containing an area of 572,408 square feet or 13.141 acres.]

The Aloha Tower complex is established. The complex shall include the area bounded by Nimitz Highway beginning at its intersection with the Diamond Head boundary of tax map key 2-1-13:7 north along Nimitz Highway to its intersection with the makai boundary of tax map key 1-7-1:6; northeast along River Street to its intersection with King Street; north along King Street to its intersection with Iwilei Road west along Iwilei Road to its intersection with Nimitz Highway at Ewa makai corner of tax map key 1-5-08:1; south along Nimitz Highway to its intersection with the boundary between tax map key 1-5-8:1; and tax map key 1-5-8:9; west along a line to the Diamond Head mauka corner of tax map key 1-5-40:4; west along Nimitz Highway to its intersection with the Ewa boundary of tax map key 1-5-38:4; south along the Ewa boundaries of tax map key 1-5-38:4 and 1-5-38:5 to Honolulu Harbor; east along the waterfront boundary of tax map key 1-5-38:5 to Pier 23; south along Pier 23 to the southwest end of Pier 22; continuing along a line in the same direction to its intersection with the Honolulu Harbor Federal Project Line; northeast along the Honolulu Harbor Federal Project Line to a point

in Honolulu Harbor 475 feet perpendicular to Pier 11; southwest along a line parallel to Piers 10 and 11 to its intersection with a line extending from the southwest end of Pier 22 to the point of intersection of the Honolulu Harbor Federal Project Line and a line extending along Pier 8 into Honolulu Harbor; southeast along a line to the point of intersection of the Honolulu Federal Project Line and a line extending along Pier 8 into Honolulu Harbor; northeast along Pier 8; from the mauka end of Pier 8 to the point of beginning at the intersection of the Diamond Head boundary of tax map key 2-1-13:7 and Nimitz Highway. All fast and submerged lands contained within this area shall also be included.”

SECTION 4. Section 206J-5, Hawaii Revised Statutes, is amended to read as follows:

“§206J-5 Powers; generally. (a) The development corporation shall have all the powers necessary to carry out its purposes, including the following powers:

- (1) To sue and be sued;
- (2) To have a seal and alter the same at its pleasure;
- (3) To make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter;
- (4) To make and alter bylaws for its organization and internal management;
- (5) To adopt rules under chapter 91 necessary to effectuate this chapter in connection with its projects, operations, properties, and facilities;
- (6) Through its chief executive officer, to appoint officers, agents, and employees, prescribe their duties and qualifications, and fix their salaries, consistent with chapters 76 and 77;
- (7) To prepare or cause to be prepared a development plan for the Aloha Tower complex, incorporating the needs of the department of transportation[.] and accommodating the plans, specifications, designs, or estimates of any project acceptable to the development corporation;
- (8) To own, lease, hold, clear, improve, and rehabilitate real, personal, or mixed property and to assign, exchange, transfer, convey, lease, sublease, or encumber any project or improvement, including easements, constituting part of a project within the Aloha Tower complex, except that required for necessary maritime purposes[.], including leases or other agreements for the rehabilitation, repair, maintenance, and operation of the Aloha Tower;
- (9) By itself, or in [partnership] conjunction with qualified persons, to develop, construct, reconstruct, rehabilitate, improve, alter, or repair or provide for the development, construction, reconstruction, rehabilitation, improvement, alteration, or repair of any project[.], including projects or any portion thereof under the control or jurisdiction of qualified persons; to own, hold, assign, transfer, convey, exchange, lease, sublease, or encumber any project[.], including projects or any portion thereof under the control or jurisdiction of qualified persons;
- (10) [To] Notwithstanding any other provision of law to the contrary, to arrange or initiate appropriate action for the planning, replanning, opening, grading, relocating, or closing of streets, roads, roadways, alleys, easements, piers, or other places, the furnishing of facilities, the acquisition of property or property rights, or the furnishing of property, development rights, or services in connection with a project;
- (11) To grant options or renew any lease entered into by it in connection with any project, on terms and conditions as it deems advisable;
- (12) To prepare or cause to be prepared plans, specifications, designs, and estimates of project cost for the development, construction, reconstruction, rehabilitation, improvement, alteration, or repair of any project,

and from time to time to modify such plans, specifications, designs, or estimates;

- (13) To provide advisory, consultative, training, and educational services, technical assistance, and advice to any person, partnership, or corporation, either public or private, in order 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;
- (14) To procure insurance against any loss in connection with its property and other assets and operations in such amounts and from such insurers as it deems desirable;
- (15) To contract for and accept gifts or grants in any form from any public agency or from any other source;
- (16) To pledge or assign all or any part of the moneys, rents, charges, or other revenues and any proceeds derived by the development corporation from proceeds of insurance or condemnation awards, less guarantees to the harbor special fund for the loss of revenues or incurrence of costs and expenses because of any action taken by the development corporation; and
- (17) To issue bonds of the development corporation for the purpose of providing funds for any of its corporate purposes.

(b) The development corporation shall impose, prescribe, and collect rates, rentals, fees, or charges for the lease and use and services of its projects at least sufficient to pay the costs of operation, maintenance and repair, if any, of its projects and the required payments of the principal of and interest on all bonds issued to finance its projects. Notwithstanding anything to the contrary contained in this section, the development corporation may take into account any project costs supplied by qualified persons in calculating such rates, rentals, fees, or charges, to the extent that if the qualified person selected by the development corporation is willing to underwrite the entire or substantially all of the costs of development and construction of that project, the development corporation is empowered to negotiate nominal rentals.

SECTION 5. Section 206J-6, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read as follows:

“(b) The development corporation shall preserve the Aloha Tower as an historical monument and shall not sell, remove, demolish, deface, or alter the structure in any reasonable degree to lessen its historical value to the community. However, and notwithstanding any other law to the contrary, repairs, maintenance, relocation of pier platforms, or any essential reconstruction necessary for the preservation of the Aloha Tower as an historical monument shall be permissible.”

2. By amending subsection (d) to read as follows:

“(d) The development corporation or its lessees shall not exercise any jurisdiction over the provided replacement facilities located within the Aloha Tower complex required for necessary maritime purposes and activities[.] (hereinafter “maritime facilities.”)[except that facilities] Jurisdiction over any such replacement facilities shall be in the department of transportation. Facilities functionally related [and subordinate] to maritime purposes[,] and the purposes outlined in the development plan for the Aloha Tower complex, such as hotel facilities for maritime passengers[,] and waterfront visitors, concession facilities adjacent to maritime terminal facilities, public parking facilities which are situated on property not cur-

rently under the jurisdiction of the department of transportation, and commercial, retail, residential, and office facilities may be under the jurisdiction of the development corporation or its lessees. [Jurisdiction over any such replacement facilities shall be in the department of transportation.]'

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

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

(Approved June 14, 1988.)

Note

1. So in original.

ACT 357

H.B. NO. 2357

A Bill for an Act Relating to Chiropractic.

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

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

"§26H-4 Repeal dates. (a) The following chapters are hereby repealed effective December 31, 1988:

- (1) Chapter 465 (Board of Psychology)
- (2) Chapter 468E (Board of Speech Pathology and Audiology)
- (3) Chapter 468K (Travel Agencies)
- (4) Chapter 373 (Commercial Employment Agencies)
- [5] Chapter 442 (Board of Chiropractic Examiners)
- (6) [5] Chapter 448 (Board of Dental Examiners)
- [7] [6] Chapter 436E (Board of Acupuncture)
- (b) The following chapters are hereby repealed effective December 31, 1989:
 - (1) Chapter 444 (Contractors License Board)
 - (2) Chapter 448E (Board of Electricians and Plumbers)
 - (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
 - (4) Chapter 466 (Board of Public Accountancy)
 - (5) Chapter 467 (Real Estate Commission)
 - (6) Chapter 439 (Board of Cosmetology)
 - (7) Chapter 454 (Mortgage Brokers and Solicitors)
 - (8) Chapter 454D (Mortgage and Collection Servicing Agents)
- (c) The following chapters are hereby repealed effective December 31, 1990:
 - (1) Chapter 447 (Dental Hygienists)
 - (2) Chapter 453 (Board of Medical Examiners)
 - (3) Chapter 457 (Board of Nursing)
 - (4) Chapter 458 (Board of Dispensing Opticians)
 - (5) Chapter 460J (Pest Control Board)
 - (6) Chapter 462A (Pilotage)
 - (7) Chapter 438 (Board of Barbers)
- (d) The following chapters are hereby repealed effective December 31, 1991:

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- (1) Chapter 448H (Elevator Mechanics Licensing Board)
- (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
- (3) Chapter 457B (Board of Examiners of Nursing Home Administrators)
- (4) Chapter 460 (Board of Osteopathic Examiners)
- (5) Chapter 461 (Board of Pharmacy)
- (6) Chapter 461J (Board of Physical Therapy)
- (7) Chapter 463E (Podiatry)
- (e) The following chapters are hereby repealed effective December 31, 1992:
 - (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
 - (2) Chapter 437B (Motor Vehicle Repair Industry Board)
 - (3) Chapter 440 (Boxing Commission).
- (f) The following chapters are hereby repealed effective December 31, 1993:
 - (1) Chapter 441 (Cemetery and Funeral Trusts)
 - (2) Chapter 443B (Collection Agencies)
 - (3) Chapter 452 (Board of Massage)
 - (4) Chapter 455 (Board of Examiners in Naturopathy)
 - (5) Chapter 459 (Board of Examiners in Optometry)
- (g) The following chapter is hereby repealed effective December 31, 1994:
 - (1) Chapter 442 (Board of Chiropractic Examiners).
- [(g)] (h) The following chapters are hereby repealed effective December 31, 1997:
 - (1) Chapter 463 (Board of Private Detectives and Guards)
 - (2) Chapter 471 (Board of Veterinary Examiners)."

SECTION 2. Section 442-6, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The applicant shall be required to pass parts I and II of the National Board of Chiropractic Examiners’ written examination and the written clinical competency examination in order to qualify for the state chiropractic examination. The state examinations shall be designed to ascertain the fitness and qualifications of the applicant to practice chiropractic. The board may contract with professional testing services to prepare, administer, and grade the state examinations. The state examination may include both practical demonstration and a written examination. A license shall be granted to any applicant who attains a numerical score of seventy-five or higher in all subjects and sections of the state examination. Any applicant failing to make the required grade may be reexamined at the next regular examination upon payment of a reexamination fee. Any person seeking licensure under this chapter, including approval to use physiotherapy modalities, shall demonstrate to the satisfaction of the board that the person has received training in the use of physiotherapy modalities at an accredited institution and passed the physiotherapy portion of the National Board of Chiropractic Examiners’ examination. The board may require an applicant to complete a practical demonstration examination which shall include an examination of the applicant’s performance in using physiotherapy treatment techniques and equipment.”

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

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

(Approved June 14, 1988.)

ACT 358

H.B. NO. 2550

A Bill for an Act Relating to Highways.

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

SECTION 1. Section 46-16, Hawaii Revised Statutes, is amended to read as follows:

"[§46-16] Traffic regulation and control over private streets. Any provision of law to the contrary notwithstanding, [the council of] any county and its authorized personnel may impose and enforce traffic regulations and place appropriate traffic control devices, and may enforce chapters 286 and 291C, on the following categories of private streets, highways, or thoroughfares, except private roads used primarily for agricultural and ranching purposes:

- (1) Any private street, highway, or thoroughfare which has been used continuously [used] by the general public for a period of not less than six months; provided that the county shall not be responsible for the maintenance and repair of the private street, highway, or thoroughfare when it imposes [and] or enforces traffic regulations and highway safety laws or places appropriate traffic control devices on [such] that street, highway, or thoroughfare; provided further that no adverse or prescriptive rights shall accrue to the general public when the county imposes [and] or enforces traffic regulations and highway safety laws or places appropriate traffic control devices on [such] that street, highway, or thoroughfare[.]; and
- (2) Any private street, highway, or thoroughfare which is intended for dedication to the public use as provided in section 264-1 and is open for public travel but has not yet been accepted by the county."

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

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

(Approved June 14, 1988.)

ACT 359

H.B. NO. 2553

A Bill for an Act Making an Appropriation for Liability Insurance Premiums.

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 \$125,000, or so much thereof as may be necessary for fiscal year 1988-1989, for subsidy payments covering liability insurance premiums of certain obstetricians and gynecologists designated by the insurance commissioner for the purpose of this Act.

SECTION 2. The sum appropriated shall be expended by the department of commerce and consumer affairs for the purpose of this Act.

SECTION 3. This Act shall take effect on July 1, 1988.

(Approved June 14, 1988.)

ACT 360

ACT 360

H.B. NO. 2691

A Bill for an Act Making an Appropriation for a Center for Applied Aquaculture.

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

SECTION 1. Purpose. The State of Hawaii has been designated as one of five geographic areas to qualify for a regional aquaculture research center. Pursuant to this designation, the Congress has appropriated \$6,375,000 to the Oceanic Institute for planning, design, and construction of a center for applied aquaculture facility. Congress has also required that the federal contribution be matched by state funds. The purpose of this Act is to appropriate funds for a center for applied aquaculture.

SECTION 2. 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 1988-1989, for planning, design, and construction of a center for applied aquaculture in Hawaii; provided that before any funds are expended, a memorandum of understanding for cooperation shall be signed by the president of the University of Hawaii, the chairperson of the board of land and natural resources, and the chairperson of the Oceanic Institute; provided further that the funds appropriated under this Act may be expended for facilities at the Oceanic Institute and elsewhere. The center shall provide the legislature progress reports every twelve months until the center for applied aquaculture is completed.

SECTION 3. The sum appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 1988.

(Approved June 14, 1988.)

ACT 361

H.B. NO. 2974

A Bill for an Act Relating to Public Lands.

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

SECTION 1. Chapter 171, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . INDUSTRIAL PARKS

§171- Definitions. For the purposes of this part:

"Eligible lessee" means a person who is:

- (1) Engaged or proposing to engage in a business, of which at least ninety per cent of the gross income is derived from an industrial use; and
- (2) Qualified to lease public lands under this chapter.

"Industrial park" means an area of public lands which is designated an industrial park in accordance with this part.

"Industrial use" means the manufacturing, refining, sorting, processing, storing, maintaining, or repairing of materials, substances, products, or equipment.

"Infrastructure" includes water, drainage, sewer, waste disposal, and waste treatment systems, roads, and street lighting.

§171- Designation of industrial park. A contiguous area of not less than five acres of public lands which is classified as suitable and economically feasible for industrial use may be designated as an industrial park:

- (1) By resolution adopted by the board of land and natural resources, and approved by the legislature by concurrent resolution; or
- (2) By law.

§171- Authority to plan, improve, develop, operate, and maintain industrial parks. The board shall plan, improve, develop, operate, and maintain each industrial park designated pursuant to section 171-. The planning, improving, developing, operation, and maintenance of an industrial park shall be in accordance with this chapter.

§171- Industrial park development. (a) The department may develop an area of public lands as an industrial park. Any development shall commence after designation of the area of public lands as an industrial park in accordance with section 171-. Planning activities for the proposed or potential designation of an industrial park may precede a designation.

(b) At the option of the board, the development of an industrial park shall be exempt from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to planning, zoning, construction standards for subdivision development and improvement of land, and the construction of buildings thereon; provided that:

- (1) The board finds that the industrial park meets the minimum requirements of health and safety;
- (2) The development of the industrial park does not contravene any safety standards or tariffs approved by the public utilities commission for public utilities;
- (3) The legislative body of the county in which the industrial park is proposed to be situated approves the industrial park.
 - (A) The legislative body shall approve or disapprove the industrial park within forty-five days after the department has submitted preliminary plans and specifications for the industrial park to the legislative body. If after the forty-fifth day, an industrial park is not disapproved, it shall be deemed approved by the legislative body.
 - (B) No action shall be prosecuted or maintained against any county, its officials, or employees, on account of actions taken by them in reviewing, approving, or disapproving the plans and specifications.
 - (C) The final plans and specifications for the industrial park shall be deemed approved by the legislative body if the final plans and specifications for the industrial park do not substantially deviate from the preliminary plans and specifications. The determination that the final plans and specifications do not substantially deviate from the preliminary plans and specifications of the industrial park shall rest with the board. The final plans and specifications for the park shall constitute the planning, zoning, building, improvement, construction, and subdivision standards for that industrial park. For the purposes of sections 501-85 and 502-17, the chairperson of the board or the responsible county official may certify maps and plans of land connected with the industrial park as having complied with applicable laws and ordinances relating to consolidation and subdivision of lands, and such maps

and plans shall be accepted for registration or recordation by the land court and registrar; and

- (4) The board shall assume the responsibility of all infrastructure within the industrial park, if the infrastructure developed is exempt from applicable county ordinances, charter provisions, and rules.
- (c) If the board does not exercise the option under subsection (b), the board shall develop an industrial park in compliance with the statutes, ordinances, charter provisions, and rules of applicable government agencies.

§171- Joint venture. An industrial park may be developed under section 171- by the department in partnership with a federal agency, county, or private party. The department shall be subject to a partnership agreement executed by the chairperson of the board. At a minimum, the agreement shall provide for:

- (1) A determination by the board that the partnership agreement is for a public purpose;
- (2) Long-term assurance that the public land within the industrial park will be utilized for industrial uses;
- (3) Final approval by the board of the plans and specifications for the industrial park;
- (4) Exclusive authority by the board to issue leases within the industrial park; and
- (5) Conditions to ensure a public benefit from any state funds expended for the industrial park.

§171- Disposition of public lands within industrial park. The board shall dispose of economic units within an industrial park only by lease to eligible lessees or lessees engaged in commercial uses as provided under paragraph (1)(B). The leases shall be issued by the board in accordance with this chapter, subject to the following:

- (1) Only industrial uses shall be allowed on the public lands leased; provided that:
 - (A) The eligible lessee may be allowed to engage in nonindustrial uses and activities ancillary and necessary to the eligible lessee's industrial use; and
 - (B) The board may lease public lands within the industrial park for commercial uses if the uses are necessary or desirable to serve other lessees in the industrial park or their employees;
- (2) Each eligible lessee shall derive a substantial portion of the eligible lessee's total annual gross income from the eligible lessee's activities within the industrial park;
- (3) Each eligible lessee shall be subject to a development plan formulated pursuant to section 171-41 and make the improvements to the leased public lands required under the development plan; and
- (4) Each eligible lessee shall pay all assessments for improvements of infrastructure or other public or common facilities within the industrial park, if the board requires the improvements or assessments as conditions of the lease.

§171- Preference. Preference for a lease of public lands within an industrial park shall be given to an eligible lessee who is a small business. For the purpose of this section, "small business" means the same as "small business concern" under section 210-1.

§171- Industrial park special fund. (a) There is established within the treasury of the State the industrial park special fund. The proceeds of the special fund shall be used for the following purposes:

- (1) Planning, design, improvement, construction, land acquisition, and equipment necessary for the development or maintenance of industrial parks;
 - (2) Constructing, operating, maintaining, and improving infrastructure and other public or common facilities within industrial parks; and
 - (3) Any other purpose deemed necessary by the board for the purpose of planning, improving, developing, operating, and maintaining industrial parks.
- (b) The following shall be deposited into the special fund:
- (1) Appropriations by the legislature to the special fund;
 - (2) Lease rents collected from eligible lessees of public lands within industrial parks;
 - (3) Assessments collected from eligible lessees of public lands within industrial parks which are charged by the board pursuant to conditions in the leases; and
 - (4) Interest earned or accrued on moneys in the special fund.

§171- Acquisition. The board may acquire by exchange, direct purchase, or eminent domain, lands to which private persons or other public agencies hold title for designation as or inclusion in an industrial park. The acquisition of lands shall be in accordance with this chapter.

§171- Rules. The board may adopt rules in accordance with chapter 91 in order to effectuate the purposes of this part.

§171- Lease for eligible permittee in industrial park. (a) Notwithstanding any other provision of law to the contrary:

- (1) A parcel of the public lands within an industrial park which had been occupied and used under a permit on the day before the date of designation of that industrial park shall be an economic unit in that industrial park. For the purpose of this section:
 - (A) "Date of designation" means the effective date of the resolution or law which designates an industrial park; and
 - (B) "Eligible economic unit" means an economic unit referred to under this paragraph;
- (2) A person with a permit to use an eligible economic unit on the day before the date of designation of that industrial park shall be given first preference to lease that unit after the date of designation if the person is an eligible lessee. For the purpose of this section, an "eligible permittee" means a person referred to under this paragraph;
- (3) The board shall issue a lease to an eligible permittee for an eligible economic unit under mutually agreeable terms, conditions, and lease rent. The lease shall be issued through negotiations, without regard to the limitations set forth in section 171-16(c) and section 171-59(a). The terms, conditions, and rent under the lease shall be in conformance with this chapter, and the board shall include lease covenants in each lease for the placement and construction of improvements in accordance with minimum standards established by applicable county building codes; and
- (4) The board shall negotiate in good faith with each eligible permittee. If the board and eligible permittee cannot agree to a lease within one hundred eighty days from the date of designation, the board shall have no further obligation to negotiate with or issue a lease to the eligible permittee and may issue a lease for the eligible economic unit to another

person after the one hundred eighty-day period; provided that any lease for the eligible economic unit issued subsequent to the termination of the one hundred eighty-day period shall not include terms and conditions which are less restrictive, and a lease rent which is less, than the terms, conditions, and lease rent last offered in writing by the eligible permittee and received by the board.

(b) It is the intent of the legislature that persons occupying and using under a month-to-month or revocable permit public lands which have been designated as part of an industrial park be given the opportunity to lease the same public lands occupied and used prior to the designation. The application, construction, and interpretation of this section shall reflect this intent."

SECTION 2. Section 171-1, Hawaii Revised Statutes, is amended by amending the definition of "public purpose" to read as follows:

" "Public purpose", as used in this chapter, unless the context clearly indicates otherwise, includes but shall not be limited to all public uses, the straightening of boundaries of public lands, acquisition of access to landlocked public lands, the consolidation of the holdings of public lands, development of houselots, farmlots, and industrial [subdivisions.] parks."

SECTION 3. Section 171-19, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There is created in the department of land and natural resources a special fund to be designated as the "special land and development fund". Subject to the provisions contained in the Hawaiian Homes Commission Act of 1920, as amended, and in section 5(f) of the Admission Act of 1959, and except as provided under section 171- for the industrial park special fund, all proceeds of sale of public lands, including interest on deferred payments, and all rents from leases, licenses, and permits derived from public lands shall be set apart in the fund and shall be used only as authorized by the legislature, except that, without such prior legislative authority, the board of land and natural resources may use the fund for the following purposes:

- (1) To reimburse the general fund of the State for advancements heretofore or hereafter made therefrom, which are required to be reimbursed from the proceeds of sales, leases, licenses, or permits derived from public lands;
- (2) For the incidental maintenance of all lands under the control and management of the board, including [the repair of] repairs or improvements, thereon, not to exceed \$200,000 in any fiscal year;
- (3) To repurchase any land, including improvements thereon, in the exercise by the board of any right of repurchase specifically reserved in any patent, deed, lease, or other documents or as provided by law;
- (4) For the payment of all appraisal fees; provided that all such reimbursable fees collected by the board shall be deposited in the fund;
- (5) For the payment of publication notices as required under this chapter; provided that all or a portion of the expenditures may be charged to the purchaser or lessee of public lands or any interest therein under rules adopted by the board;
- (6) For the planning and construction of roads and trails along state rights-of-way not to exceed \$5,000 in any fiscal year; and

- (7) For the payment to private land developer or developers who have contracted with the board for development of public lands under section 171-60."

SECTION 4. Section 171-41, Hawaii Revised Statutes, is amended to read as follows:

"§171-41 Commercial, industrial, and other business uses. (a) Leases for commercial, industrial, and other business uses shall be made only pursuant to a development plan which provides for careful placement of complementary enterprises consistent with county zoning requirements[.]; except that development plans for leases of parcels in industrial parks developed under section 171-

(b) shall provide for careful placement of complementary enterprises consistent with the final plans and specifications under section 171-

(b). Where a disposition for any such use is made without advance parcelization, the board shall make adequate provisions for the compatibility of the proposed enterprises with any existing surrounding private developments. The board, wherever possible, shall control the landscaping and architecture of the enterprises and protect the public against the creation of nuisances of smoke, soot, irritating odors and gases, and harmful wastes.

(b) The board may sell public land in fee simple for commercial, industrial, or other business uses with the prior approval of the governor and subject to disapproval by two-thirds vote of either the senate or the house of representatives or by majority vote of both in any regular or special session next following the date of disposition; provided the above restrictions shall not apply to any sale of land initially acquired for highway purposes with participating federal funds and which land is later found to be in excess of the need for highway purposes."

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

SECTION 6. This Act shall take effect upon its approval.

(Approved June 14, 1988.)

ACT 362

H.B. NO. 3292

A Bill for an Act Relating to Trustees.

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

SECTION 1. Section 607-18, Hawaii Revised Statutes, is amended to read as follows:

"§607-18 Fees and expenses of trustees. (a) Upon all moneys and other property received in the nature of revenue or income of the estate, such as rents, interest, dividends, and general profits, trustees, except trustees of a charitable trust, shall be allowed as commissions payable out of the income received during each year, 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 [oftener] more often than once a year.

(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

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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 [one-tenth] three 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 [one-tenth] three tenths of one per cent on the principal shall not apply to trust estates created under a trust document which authorizes the trustees to employ others to perform bookkeeping and clerical services at the expense of the estate, unless first approved by the court, nor shall such [one-tenth] three tenths of one per cent be allowed when such authority is granted by statute. For the purposes of this [paragraph] subsection, the value of the estate shall be determined in such manner as the court may approve.

(c) Such further allowances may be made as the court deems just and reasonable for services performed in connection with 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.

(d) [These provisions] This section shall apply as well to future accounting in existing estates as to new estates."

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

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

(Approved June 14, 1988.)

ACT 363

H.B. NO. 3304

A Bill for an Act Relating to the Insurance Code.

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

SECTION 1. Act 347, Session Laws of Hawaii 1987, section 2, is amended by adding a new section to be designated and to read as follows:

“§431:10-244 Filing procedure for contracts approved by commissioner.
Each insurance contract requiring approval by the commissioner pursuant to section 392-48 and section 386-124 shall be accompanied by a \$20 fee payable to the commissioner, which fee shall be deposited in the commissioner's education and training fund.”

SECTION 2. Act 347, Session Laws of Hawaii 1987, section 2, is amended as follows:

1. By amending section 431:2-105 to read:

“§431:2-105 Deputies, employees. (a) There shall be a chief deputy commissioner, who shall be subject to [the provisions of] chapters 76 and 77. The chief

deputy commissioner shall have power to perform any act or duty conferred upon the commissioner, and shall take and subscribe the same oath of office as the commissioner, which oath shall be endorsed upon the certificate of the chief deputy commissioner's appointment and filed in the office of the lieutenant governor.

(b) There may be additional deputy commissioners and examiners and actuarial, technical, and administrative assistants and clerks for such purposes as the commissioner may designate. All of the positions shall be subject to chapters 76 and 77.

(c) The commissioner may appoint a senior rate and policy analyst who shall not be subject to chapters 76 and 77.

[c]¹ (d) The commissioner shall be responsible for the official acts of the commissioner's deputies and employees.

[d]¹ (e) The commissioner may require any employee to be bonded as the commissioner deems proper. The cost of¹ [such] the bond shall be borne by the State."

2. By amending section 431:3-202 to read:

"§431:3-202 Insurer's name. (a) Every insurer shall conduct its business in its own legal name.

(b) No insurer shall assume or use a name deceptively similar to that of any other authorized insurer, nor which tends to deceive or mislead as to the type of organization of the insurer.

(c) When a foreign or alien insurer authorized to do business in this State wants to change the name under which its certificate of authority is issued, the insurer shall file a request for name change with the commissioner at least thirty days prior to the effective date of the name change. If within the thirty-day period the commissioner finds the name change request does not meet the requirements of this chapter or of the corporation laws of this State, the commissioner shall send to the insurer written notice of disapproval of the request specifying in what respect the proposed name change fails to meet the requirements of this chapter or the corporation laws of this State and stating that the name change shall not become effective."

3. By amending section 431:10A-113 to read:

"§431:10A-113 Filing procedure. The commissioner may [make] adopt reasonable rules [and regulations] concerning the procedure for the filing or submission of policies subject to this article as are necessary, proper, or advisable to the administration of this article. Each filing shall be accompanied by a \$20 fee payable to the commissioner, which fee shall be deposited in the commissioner's education and training fund. This provision shall not abridge any other authority granted the commissioner by law."

4. By amending section 431:20-103 to read:

"§431:20-103 General insurance law applicable. The following provisions [of this code] shall apply to title insurance and to title insurers:

- (1) Section 431:1-103 and section 431:1-105;
- (2) Section 431:1-212, section 431:1-213, and section 431:1-214;
- (3) Section 431:2-101 to section 431:2-106, and section 431:2-108 to section 431:2-110;
- (4) Section 431:2-201 to section 431:2-204, and section 431:2-207 to section 431:2-212;
- (5) Section 431:2-302, section 431:2-303, section 431:2-305, and section 431:2-306;

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- (6) Section 431:3-101 to section 431:3-105;
- (7) Section 431:3-201 to section 431:3-203, section 431:3-205, section 431:3-206, and section 431:3-209 to section 431:3-220;
- (8) Section 431:3-301, section 431:3-305, section 431:3-307, and section 431:3-308;
- (9) Section 431:4-102 to section 431:4-127;
- (10) Section 431:4-202 to section 431:4-207;
- (11) Section 431:5-101;
- (12) Section 431:5-201 to section 431:5-203;
- (13) Section 431:5-305, section 431:5-306, and section 431:5-308 to section 431:5-311;
- (14) Article 6[, Part I, Part IV and Part V];
- [15] Section 431:6-201;
- (16) Section 431:6-301 to section 431:6-320;
- (17) Article 7, Part I and Part III;
- (18) Section 431:7-201 to section 431:7-205;
- (19) Section 431:9-202 to section 431:9-205;
- (20) Article 9, Part II;]
- (15) Article 7:
- (16) Article 9:
- [21)] (17) Section 431:10-211, section 431:10-216 to section 431:10-218, section 431:10-220, section 431:10-221, section 431:10-224, section 431:10-225, and section 431:10-235 to section 431:10-238;
- [22) Section 431:13-101 to section 431:13-106;
- (23) Section 431:13-201 and section 431:13-202; and]
- (18) Article 13; and
- [24)] (19) Article 15.”

5. By amending subsection (a) of section 431:20-121 to read:

“(a) Every title insurer shall at least thirty days before use, file with the commissioner every form of insurance contract which it proposes to issue as to risks located in this State, together with the forms of all printed endorsements or other modifications of such contracts proposed to be used. Each filing shall be accompanied by a \$20 fee payable to the commissioner, which fee shall be deposited in the commissioner's education and training fund.”

6. By amending subsection (f) of section 432:2-404 to read:

“(f) No certificate shall be delivered or issued for delivery in this State unless a copy of the form has been filed with the commissioner. Each filing shall be accompanied by a \$20 fee payable to the commissioner, which fee shall be deposited in the commissioner's education and training fund. Every life, accident, health, or disability insurance certificate and every annuity certificate issued on or after [one year from the effective day of this article] July 1, 1989, shall meet the standard contract provision requirements not inconsistent with this article for like policies, except that a society may provide for a grace period for payment of premiums of one full month in its certificates. The certificate shall also contain a provision stating the amount of premiums which are payable under the certificate and a provision reciting or setting forth the substance of any sections of the society's laws or rules in force at the time of issuance of the certificate which, if violated, will result in the termination or reduction of benefits payable under the certificate. If the laws of the society provide for expulsion or suspension of a member, the certificate shall also contain a provision that any member so expelled or suspended, except for nonpayment of a premium or within the contestable period for material misrepresentation in the application for membership or insurance, shall have the privilege of maintaining the certificate in force by continuing payment of the required premium.”

7. By amending section 432:2-603 to read:

"§432:2-603 Annual license. (a) Societies which are now authorized to transact business in this State may continue such business until May 1 next succeeding the effective date of this article. The authority of such societies and all societies hereafter licensed, may thereafter be renewed annually, but in all cases to terminate on the succeeding May 1. However, a license so issued shall continue in full force and effect until the new license [be] is issued or specifically refused. For each such license or renewal, the society shall pay the commissioner \$7.50. A duly certified copy or duplicate of such license shall be prima facie evidence that the licensee is a fraternal benefit society within the meaning of this article.

(b) If the license fee is not paid by May 1, the fee shall be increased by a penalty in the amount of fifty per cent of the fee. If the fee and the penalty are not paid within the thirty days immediately following the extension date, the commissioner may revoke the license until the fee and penalty have been paid."

SECTION 3. Act 348, Session Laws of Hawaii 1987, section 16, is amended by amending subsection (a) of section 431:10B-108 to read as follows:

"(a) All policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements, and riders delivered or issued for delivery in this State and the schedules of premium rates pertaining thereto shall be filed with the commissioner for approval. Each filing shall be accompanied by a \$20 fee payable to the commissioner, which fee shall be deposited in the commissioner's education and training fund. Forms and rates so filed shall be approved at the expiration of forty-five days after filing, unless earlier approved or disapproved by the commissioner. The commissioner by written notice to the insurer, within the forty-five day period, may extend the period for an additional thirty days."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.²

SECTION 5. This Act shall take effect on July 1, 1988.

(Approved June 14, 1988.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

ACT 364

H.B. NO. 3306

A Bill for an Act Relating to Uniform Securities Act.

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

SECTION 1. Section 485-14, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) It is unlawful for any person to transact business in this State as a dealer, investment adviser, salesman, or investment adviser representative unless registered under this chapter. However, nothing in this chapter shall prevent the commissioner from participating, in whole or in part, in the Central Registration

Depository system, in cooperation with the National Association of Securities Dealers, Inc., other states, and the United States, to the extent participation is deemed to be in the public interest of this State."

2. By amending subsection (i) to read:

"(i) Registration of salesmen. An information statement, containing [such] information as the commissioner shall prescribe, [duly verified by oath by the applicant,] shall be filed [in the office of] where prescribed by the commissioner, together with an appointment of the applicant as a salesman by a registered dealer. The commissioner may require the following:

- (1) Disclosure of any injunction or administrative order or conviction of a misdemeanor involving a security or any aspect of the securities business and any conviction of a felony;
- (2) The applicant's financial history and condition;
- (3) Disclosure as to whether the salesman or any person associated in business with the salesman is subject to any disqualification which would be a basis for denial, suspension, or revocation of registration of the salesman under section 485-15; and
- (4) Any additional information as the commissioner deems necessary to establish the applicant's qualifications.

If the commissioner finds a salesman designated by any registered dealer to be eligible for registration as a salesman, [he] the commissioner shall register the person as a salesman upon the payment of the fee hereinafter provided."

3. By amending subsection (1) to read:

"(1) Recording; duration; renewal; fee. The name and addresses of all persons found eligible for registration as dealers, investment advisers, salesmen, or investment adviser representatives and all orders with respect thereto shall be recorded in a register of dealers, investment advisers, salesmen, and investment adviser representatives kept in the office of the commissioner which shall be open to public inspection. Except as hereinafter provided, every registration for investment advisers and investment adviser representatives under this section shall expire on December 31 in each odd-numbered year[.], and every registration for dealers and salesmen under this section shall expire on December 31 of each year. Applications for renewals shall be made not less than thirty nor more than sixty days before the end of the [odd-numbered] expiration year[.] or as provided through the Central Registration Depository system. Any applicant for renewal of a dealer, investment adviser, salesmen,¹ or investment adviser representative registration who does not submit [his] the application within the time prescribed by this section shall pay a penalty of one hundred per cent of the applicable renewal fee. Any applicant for renewal of a dealer[,] or investment adviser registration who submits [his] the application after December 31 of the [odd-numbered] expiration year shall be required to reapply as a new dealer or investment adviser. The registration of any dealer, investment adviser, salesman, or investment adviser representative may be revoked or terminated prior to its expiration by written notice filed with the commissioner by the registered dealer, registered salesman, registered investment adviser, or registered investment adviser representative concerned, and the revocation shall take effect as of the date and time of filing of the notice. Upon revocation or termination of the registration of any dealer, investment adviser, salesman, or investment adviser representative, the dealer's, investment adviser's, salesman's or investment adviser representative's certificate of registration shall be surrendered to the commissioner for cancellation. The fee for registration and for each [biennial] renewal shall be \$100 in the case of dealers and investment advisers and \$25 in the case of salesmen[,] and investment adviser representatives."

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

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

(Approved June 14, 1988.)

Note

1. So in original.

ACT 365

H.B. NO. 3452

A Bill for an Act Relating to the Establishment of a State Revolving Fund for Water Pollution Control.

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

SECTION 1. **Legislative findings.** The legislature finds that the protection of the waters of this State is of such magnitude and complexity to justify state participation and assistance.

The Federal Water Pollution Control Act, 33 United States Code, section 1250, and the Hawaii environmental quality law, chapter 342, Hawaii Revised Statutes, provide national and state regulation to ensure the restoration, preservation, and protection of the nation's and State's waters. State agencies are prohibited from polluting navigable waters of the State and are subject to various penalties for failing to meet minimum standards of the Federal Water Pollution Control Act. Pursuant to the requirements of that act, the State has established water quality standards and effluent limitations with respect to the waters of this State. The State must certify compliance with these standards and limitations for federal permits affecting state waters.

Under the Federal Water Pollution Control Act, the State and its political subdivisions may receive federal grants, subject to the availability of funds, to be used for construction of treatment works. The State or its political subdivisions must contribute to the nonfederal share of construction costs of treatment works. It is desirable for the State to seek federal grants and assist in providing financing mechanisms to aid political subdivisions in the acquisition and construction of wastewater projects in order to meet minimum federal standards, to protect the public health and welfare, and to provide for the continuation of timely construction of needed treatment works.

The recent changes in the Water Quality Act of 1987, Public Law 100-4, embody a dramatic shift in the financing of wastewater treatment facilities from the federal government to state and local governments. The new law provides for alternative policy approaches for establishing funding mechanisms and for specific financial strategies for state governments while the federal government is scheduled to phase out its involvement in providing direct federal grants for construction projects by 1990. Under the new law the states may receive federal grants to capitalize a revolving fund up to the year 1994.

In order to qualify for a federal capitalization grant, a state must establish, by statute, a water pollution control revolving fund in accordance with the provisions and requirements of the Water Quality Act of 1987. The legal mechanism used to establish the fund must ensure that the fund, and all requirements for assistance by the fund, be available in perpetuity and be used solely to provide assistance to counties or state agencies for the construction of publicly owned wastewater treat-

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ment works as defined in section 212 of the Federal Water Pollution Control Act; for the implementation of a non-point source pollution management program under section 319(i) of the Act; and for the development and implementation of a conservation and management program under section 320 of the Act.

The legislature further finds that in order to ensure continuity of this perpetual program, thirteen positions currently established as temporary in the department of health's wastewater treatment works construction grants branch shall be converted to permanent positions which are to be federally funded.

SECTION 2. Section 342-34, Hawaii Revised Statutes, is amended to read as follows:

"§342-34 Treatment works; construction grants; advances[.]; state revolving fund. (a) The director may make grants or loans to any state or county agency of state funds as authorized and appropriated by the legislature for the construction of necessary treatment works and for other projects intended for wastewater reclamation or waste management by other than conventional means to prevent or to control the discharge of untreated or inadequately treated sewage or other waste into any state waters. The director shall coordinate the granting of state funds with available federal funds for the same purpose. No grant or loan shall be made for any project unless,¹ (1) the project conforms with the state water pollution control plan, and (2) the project is certified by the director as entitled to priority over other eligible projects on the basis of financial as well as water pollution control needs, and, in the case of treatment works, (3) the application for the grant or loan contains reasonable assurances that the applicant will provide for the proper and efficient operation and maintenance of the treatment works after its construction. If federal funds are available, the applicant shall be required to pay sixty per cent of the nonfederal share of the estimated reasonable cost of such approved treatment works as defined by Public Law 92-500. If federal funds are not available, the director may make grants up to one hundred per cent of the estimated reasonable cost of the project.

(b) If the federal funds are not immediately available, the director may advance the federal share of the planning and design cost to the county or state agency, subject to the following provisions:

- (1) The director shall enter into a contract with the applicant specifying the conditions of the advance[.]; and
- (2) The advances made by the State to the county or state agency [are to] shall be reimbursed to the State immediately upon the receipt from the federal government of the [advancement] advanced funds or within four years after the advance is made, whichever occurs first.

(c) There is established in the state treasury a fund to be known as the water pollution control revolving fund solely for the purpose of receiving federal and state funds to provide financial assistance to governmental agencies for the planning, design, and construction of treatment works owned by a governmental agency in accordance with Title VI of the Water Quality Act of 1987, Public Law 100-4, and implementation of management programs established under sections 319 and 320 of the Water Quality Act of 1987; provided that:

- (1) The director may enter into grant agreements with the administrator of the United States Environmental Protection Agency and accept capitalization grants which shall be deposited into the revolving fund;
- (2) The financial assistance which may be provided to governmental agencies by the revolving fund shall be limited to loans, loan guarantees, and bond guarantees;

- (3) The revolving fund shall be established, maintained, and credited with loan repayments and the fund balance shall be available in perpetuity for its stated purpose;
- (4) The director may make and condition loans from the fund as required by state or federal law. Such loans shall:
 - (A) Be made at or below market interest rates;
 - (B) Require annual payments of principal and interest with repayment commencing not later than one year after completion of the project for which the loan is made; and
 - (C) Be fully amortized not later than twenty years after project completion;
- (5) The director shall establish fiscal controls and accounting procedures sufficient to assure proper accounting for appropriate accounting periods of payments and disbursements received and made by the revolving fund and for fund balances at the beginning and end of the accounting period;
- (6) The director may enter into any necessary or required agreement and give or make any necessary or required assurance or certification with any person to receive payments or grants or to make or provide any financial assistance in conformance with Title VI of the Water Quality Act of 1987;
- (7) No loan from the revolving fund shall be made unless the loan recipient establishes a dedicated source of revenue for the repayment of such loans; and
- (8) The director may adopt rules pursuant to chapter 91 necessary for the purposes of this section, including but not limited to, penalties for default of loan repayments.”

SECTION 3. The thirteen positions currently not in civil service in the department of health's wastewater treatment works construction grants branch shall be converted to permanent positions which are to be federally funded. State funds appropriated under Act 216, Session Laws of Hawaii 1987, item D-1, may be utilized as state matching funds in an amount equal to twenty per cent of federal capitalization grants as required by the Water Quality Act of 1987.

The thirteen positions shall be converted to permanent civil service status within the meaning of chapters 76 and 77, Hawaii Revised Statutes, without the necessity of examination, and shall be accorded all of the rights, benefits, and privileges of other civil service employees, including seniority, prior service credit, and vacation and sick leave credits. Positions held by employees converted to civil service status shall be assigned by the director of personnel services to appropriate classes in the position classification plan, and the employees shall be paid in accordance with the salary ranges to which the classes are assigned; provided that employees receiving a salary above the minimum rate may be paid at the rate higher than the minimum rate but not exceeding the highest pay rate in the appropriate salary range.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved June 14, 1988.)

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Note

1. So in original.

ACT 366

H.B. NO. 3563

A Bill for an Act Relating to Out-Of-State Offices of the Department of Business and Economic Development.

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

SECTION 1. Chapter 201, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . OUT-OF-STATE OFFICES

§201- Establishment of out-of-state offices; purposes. The department of business and economic development may establish and operate offices in out-of-state locations, including foreign nations, to effectuate the following purposes:

- (1) Develop programs to reach targeted companies or industries in the respective area and surrounding regions;
- (2) Monitor out-of-state government policies and regulations that have an impact on business, markets, sales, tourism, and related activities;
- (3) Host government and business officials at conferences, meetings and social occasions, or other events on matters pertaining to business opportunities and attraction of investments for the State;
- (4) Develop and conduct advertising efforts, promotional events, media coverage, and educational programs regarding commerce in the State; and
- (5) Conduct related operations as needed, such as hiring or contracting for consultants.

§201- Powers of the department. The department, subject to the approval of the director of budget and finance, shall have the following general powers to operate out-of-state offices established:

- (1) To enter into contracts, leases, or cooperative agreements, or perform other transactions with any person, firm, partnership, association, company, corporation, or foreign nation, as may be necessary in the conduct of its business and on such terms as the department may deem appropriate, notwithstanding the provisions of chapter 103;
- (2) To establish operational bank accounts in out-of-state locations, including foreign denomination accounts, as may be necessary in the conduct of its business, notwithstanding the provisions of chapter 38;
- (3) To receive by gifts, grants, devises, bequests, or otherwise from private sources or a foreign nation, any property, real, personal, or mixed, intangible or tangible, absolutely or in trust, to be used and disposed of, either the principal or the income therefrom, in accordance with the conditions under which it was received;
- (4) To sell, lease, rent, hold, maintain, use, and operate any property, real, personal, or mixed, tangible or intangible, in accordance with the conditions under which it was received;
- (5) To hire such personnel as may be necessary in the conduct of its business and on such terms as the department may deem appropriate; and

- (6) To do any or all other acts reasonably necessary to carry out the objects and purposes of this chapter, provided that the department shall not obligate any funds of the state not appropriated to the department.

§201- Rules. The department may adopt rules in accordance with chapter 91 for the purposes of this chapter.

§201- Annual report. The department of business and economic development shall submit an annual report to the legislature on the operations of its out-of-state offices. For each out-of-state office the report shall describe and include, but not be limited to:

- (1) The programs developed to reach targeted companies or industries in the respective area or surrounding region, and the result of these programs;
- (2) The major out-of-state government policies and regulations affecting business and economic development in Hawaii;
- (3) The major advertising efforts, promotional events, media coverage, and educational programs developed and conducted regarding business opportunities in the State; and
- (4) An expenditure report which shall include a detailed description of expenditures involving staffing and contracted personal services.”

SECTION 2. The department is authorized to hire employees necessary to staff its out-of-state offices subject to chapters 76 and 77 and legislative appropriations.

The department may also appoint such other employees exempt from chapters 76 and 77 as may be necessary to administer the affairs of its out-of-state offices. The initial appointment shall not exceed three years, during which time the department shall submit to the legislature a request for approval prior to continuation of the position. The department shall set the duties, responsibilities, salaries, holidays, vacations, leaves, hours of work, and working conditions for these employees.

Subject to the approval of the director of budget and finance, the department may be exempted from the following state laws only to the extent necessary for the conduct of its business in operating out-of-state offices:

- (1) Sections 36-27 and 36-30, relating to special fund transfers and reimbursements to the general fund;
- (2) Section 103, relating to advertising for bids and purchases to be made in Hawaii whenever public moneys are expended;
- (3) Chapter 36, relating to management of state funds;
- (4) Chapter 38, relating to deposits of public funds;
- (5) Chapter 40, relating to audit and accounting, except that the department shall comply with section 40-81;
- (6) Chapter 76, relating to civil service;
- (7) Chapter 77, relating to compensation;
- (8) Section 78-1, relating to public employment, except when expressly hiring personnel subject to section 78-1; and
- (9) Section 171-30, relating to acquisition of real property.

Notwithstanding any other law to the contrary, the department may establish a special fund for the deposit of moneys received from the legislature for the purpose of establishing and operating its out-of-state offices and for the deposit of other sources of income or revenue.

SECTION 3. The legislative auditor shall review the department's use of the special powers provided in Section 2 of this Act and shall make recommendations

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to the legislature on the continuation of the authority granted to the department by this Act no later than twenty days before the convening of the Regular Session of 1990.

SECTION 4. This Act shall take effect upon approval.

(Approved June 14, 1988.)

ACT 367

S.B. NO. 2789

A Bill for an Act Relating to Chiropractic.

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

SECTION 1. Section 442-6, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The applicant shall be required to pass parts I and II of the National Board of Chiropractic Examiners’ written examination and the written clinical competency examination in order to qualify for the state chiropractic examination. The state [examinations] chiropractic examination shall be designed to ascertain the fitness and qualifications of the applicant to practice chiropractic. The board may contract with professional testing services to prepare, administer, and grade the state [examinations.] chiropractic examination. The state chiropractic examination may include both a practical demonstration and a written examination. A license shall be granted to any applicant who attains a numerical score of seventy-five or higher in all subjects and sections of the state chiropractic examination. Any applicant failing to make the required grade may be reexamined at the next regular examination upon payment of a reexamination fee. Any person seeking licensure under this chapter, including approval to use physiotherapy modalities, shall demonstrate to the satisfaction of the board that the person has received training in the use of physiotherapy modalities at an accredited institution and passed the physiotherapy portion of the National Board of Chiropractic Examiners’ examination. The board may require an applicant to complete a practical demonstration examination which shall include an examination of the applicant’s performance in using physiotherapy treatment techniques and equipment.”

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

SECTION 3. This Act shall take effect November 1, 1988.

(Approved June 14, 1988.)

ACT 368

S.B. NO. 2802

A Bill for an Act Relating to Public Utilities.

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

SECTION 1. Chapter 269, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§269- Relations with an affiliated interest; definition; contracts with affiliates filed and subject to commission action. (a) For purposes of this section “affiliated interests” with a public utility includes the following:

- (1) Every person owning or holding, directly or indirectly, ten per cent or more of the voting securities of a public utility, and every person having ownership of ten per cent or more of voting securities of a person owning ten per cent or more of the voting securities of a public utility.
- (2) Every corporation ten per cent or more of whose voting securities is owned by any person owning ten per cent or more of the voting securities of a public utility;
- (3) Every person who is an officer or director of a public utility;
- (4) Every corporation operating a public utility, or providing engineering, accounting, legal, or similar service to public utilities or common carriers by water, which has three or more officers or three or more directors in common with a public utility, and every other corporation which has directors in common with a public utility where the number of common directors is more than one-third of the total number of the utility's directors;

(b) The purpose of this section is to encourage companies providing essential utility and regulated transport service to Hawaii consumers to obtain their services, supplies, and equipment by relying, to the extent practicable, on competitive procurement practices; provided that when companies obtain their services, supplies, and equipment from affiliated interests, the contracts and agreements between the regulated entity and its affiliates must be shown by clear and convincing evidence to be in furtherance of the interests of the public.

(c) No contract or agreement providing for the furnishing of management, supervisory, construction, engineering, accounting, legal, financial, or similar services, and no contract or agreement for the purchase, sale, lease, furnishing or exchange of any real or personal property rights, including but not limited to real estate, improvements on land, equipment, leasehold interests, easements, rights-of-way, franchises, licenses, permits, trademarks, and copyrights, made or entered into after July 1, 1988, between a public utility and any affiliated interest shall be valid or effective unless and until the contract or agreement has been received by the commission. It shall be the duty of every public utility to file with the commission a verified copy of any contract or agreement with an affiliate having a face value of at least \$300,000, or a verified summary of any unwritten contract or agreement having a face value of at least \$300,000 within forty-five days of the effective date of the contract or agreement. Each and every contract or agreement between a public utility and an affiliate for capital expenditures other than for real property or an interest therein, shall be accompanied with price quotations provided by at least two non-affiliated suppliers, providers, or purveyors, or if such price quotations cannot be obtained without substantial expense to the utility, that the public utility verify that fact by affidavit; provided that all contracts or agreements effective at the time of a general rate proceeding which were discoverable and subject to review by the commission, shall be valid and not subject to subsequent regulatory review and action by the commission; provided further, however, that notwithstanding any other provision to the contrary, there shall be no transfer of real property, or interest in real property between a public utility and an affiliate, without prior approval of the commission, after hearing, wherein the public utility must show that the transfer is in the best interest of the public utility and all of its customers.

No affirmative action is required by the commission in regards to the filing of the contract or agreement; provided however, that if the commission, in its discretion, determines that the terms and conditions of the contract or agreement to be unreasonable or otherwise contrary to the public interest, the commission shall notify the public utility of its determination, whereupon the public utility shall have the option to alter, revise, amend, or terminate the contract or agreement, or

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assume the risk that future payments for performance of the contract or agreement will be deemed unreasonable and excluded by the commission for ratemaking purposes.

(d) In any proceeding, whether upon the commission's own motion or upon application or complaint, involving the rates or practices of any public utility, the commission may exclude from the accounts of the public utility any payment or compensation to an affiliated interest for any services rendered or property or service furnished, as above described, under existing contracts or agreements with the affiliated interest unless the public utility shall establish by clear and convincing evidence the reasonableness of the payment or compensation.

(e) The commission shall have continuing supervisory control over the terms and conditions of the contracts and agreements above described so far as necessary to protect and promote the public interest. The commission shall have the same jurisdiction over modifications of or amendments to contracts or agreements as it has over original contracts or agreements. The fact that the public utility may have entered into contracts or agreements without submittal of documents to the commission shall not preclude disallowance or disapproval of payments made pursuant thereto, for ratemaking purposes, if upon actual experience under the contracts or agreements it appears that the payments provided for or made are or were unreasonable. Every contract or agreement shall be expressly conditioned upon the reserved power of the commission to take appropriate ratemaking actions if, and as necessary, subsequent to submittal of the contract or agreement in order to protect and promote the public interest.

(f) Whenever the commission shall discover that any public utility is giving effect to any contract or agreement without the contract or agreement having been received by the commission for review, as required by this section, the commission has authority to issue an order to the public utility to show cause why the public utility should not cease and desist from making any payments or otherwise giving any effect to the terms of the contract or agreement, and the public utility shall have the opportunity to show with clear and convincing evidence that the contract or agreement is in the best interest of the public utility and all of its customers.

(g) None of the provisions of this section shall apply to transactions with affiliated interests where the total consideration involved in a transaction is less than \$300,000 for any calendar year provided that multiple payments under any contract or agreement shall be added together for purposes of construing this provision; and provided, further, that the provisions of this section shall apply to any contract or agreement structured specifically to avoid regulation hereunder.

(h) Transactions between affiliated Hawaii based utilities shall be exempt from the provisions of this section."

SECTION 3.¹ New statutory material is underscored.²

SECTION 4.¹ This Act shall take effect upon its approval, or on July 1, 1988, whichever occurs later.

(Approved June 14, 1988.)

Notes

1. So in original.

2. Edited pursuant to HRS §23G-16.5.

ACT 369

S.B. NO. 2888

A Bill for an Act Relating to the Undergraduate Instructional Program in Tropical Agriculture at the University of Hawaii at Manoa and the University of Hawaii, Hilo Campus.

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

SECTION 1. Findings and purpose. Hawaii's future agriculture must: (1) increase in diversification; (2) exploit opportunities for new crops and products; (3) develop and compete in global markets; (4) adapt high technology for tropical crops, products, and environments; (5) utilize fully the State's agricultural zones; and (6) maintain and conserve the environment.

The University of Hawaii has a key role in the attainment of the State's agricultural potential. The university must: (1) train students in the types and levels of competencies required by competitive agricultural industries and associated service functions; (2) provide the research, development, technology transfer, and extension education for the production, marketing, and consumption activities of Hawaii's future agriculture; and (3) maintain the quality of faculty. The University can best meet these responsibilities through the action alliance of the Manoa and Hilo campuses.

Specifically, the College of Tropical Agriculture and Human Resources, University of Hawaii at Manoa and the College of Agriculture, University of Hawaii at Hilo have been given complementary missions and functions to serve agriculture in the State. The pool of expertise formed by the faculties of these colleges represents an invaluable resource. Strengthening the mechanism for student and faculty exchanges will draw on this resource to increase the quality and scope of the programs that serve the students, the public, and the agricultural industries and improve the environment.

The purpose of this Act is to appropriate funds to implement an action alliance among the instructional, research, and extension programs of the college of agriculture at the University of Hawaii at Hilo, the college of tropical agriculture and human resources, University of Hawaii at Manoa, and the research and extension programs of the Hawaii institute of tropical agriculture and human resources.

SECTION 2. 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 the fiscal year 1988-89, to create one new position, and to finance and support student exchange, faculty exchange, summer research salaries, and split faculty appointments to strengthen the instructional programs of the college of agriculture at the University of Hawaii at Hilo and research and extension programs of the Hawaii institute of tropical agriculture and human resources.

SECTION 3. The University of Hawaii shall submit a status report on the action alliance to the governor and the legislature within ten days after the convening of the 1989 session of the legislature.

SECTION 4. The sum appropriated shall be expended by the University of Hawaii for the college of agriculture, University of Hawaii at Hilo, and the Hawaii institute of tropical agriculture and human resources, University of Hawaii at Manoa to carry out the purposes of this Act.

SECTION 5. This Act shall take effect on July 1, 1988.

(Approved June 14, 1988.)

ACT 370

H.B. NO. 3601

A Bill for an Act Relating to Business Registration.

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

SECTION 1. Section 419-3, Hawaii Revised Statutes, is amended to read as follows:

“§419-3 Powers of corporation sole. Every corporation sole formed under this chapter shall have the powers set forth in [sections 416-26 and 416-27 and be subject to section 416-31.] section 415B-5.

Every such corporation shall have continuity of existence, notwithstanding vacancies in the incumbency thereof, and during the period of any vacancy, shall have the same capacity and right to receive and take any gift, bequest, devise, or conveyance of property, either as grantee for its own use, or as a trustee (where the trusteeship is within its corporate purposes and subject to removal from such trusteeship as provided by law), and to be or be made the beneficiary of a trust, as though there were no vacancies.

No agency created by a corporation sole by a written instrument which, in express terms, provides that the agency thereby created shall not be terminated by a vacancy in the incumbency of the corporation, shall be terminated or affected by the death of the incumbent of the corporation or by a vacancy in the incumbency thereof, however caused.”

SECTION 2. Section 419-8, Hawaii Revised Statutes, is amended to read as follows:

“§419-8 Dissolution. A corporation formed under this chapter may be dissolved, voluntarily or involuntarily, in the manner provided in [part VI of chapter 416 denominated “dissolution”,] part V of chapter 415B denominated “dissolution, liquidation, and sale of assets,” save that:

- (1) In lieu of the certificate and vote therein required for a voluntary dissolution, the incumbent of the corporation sole shall execute, subscribe, and verify a declaration of dissolution which shall set forth the name of the corporation, the reason for its dissolution or winding up, and that the dissolution has been duly authorized by the church, to administer the affairs, property, and temporalities of which the corporation was organized, and the director of commerce and consumer affairs shall be satisfied that the dissolution has been duly authorized.
- (2) In lieu of the certificate of an officer, director, or manager of the corporation, therein required for the involuntary dissolution of a corporation which has ceased to have any assets and has failed to function, the certificate may be made by any authorized officer of the church, to administer the affairs, property, and temporalities of which the corporation was organized.
- (3) In lieu of the directors or managers of the corporation the incumbent shall be a trustee to wind up the corporation, unless some other person or persons are appointed as therein provided.
- (4) The church, to administer the affairs, property and temporalities of which the corporation was organized, shall stand in the place and stead of the stockholders, and may be represented in court by any authorized officer thereof or trustee acting in its behalf; the remaining assets shall be distributed to such church or to a trustee or trustees in its behalf, or in such other manner as may be decreed by the circuit court of the

judicial circuit in which the dissolved corporation had its principal office at the date of dissolution; and the trustee or trustees in dissolution, the director, the attorney general, or any person connected with the church, may file a petition for the determination of the manner of distribution of the remaining assets, or for the appointment of a trustee or trustees to act in behalf of the church.

- (5) In lieu of the officers of the corporation the incumbent shall represent the corporation with respect to the required tax clearance.”

SECTION 3. Section 421-5, Hawaii Revised Statutes, is amended to read as follows:

“§421-5 Name. Section [415-8] 415B-7 shall apply to associations formed under this chapter and no Hawaiian corporation not organized under this chapter shall use the word “cooperative” as a part of its name.”

SECTION 4. Section 421-21, Hawaii Revised Statutes, is amended to read as follows:

“§421-21 Voluntary dissolution. Chapter 415, relating to the voluntary dissolution of stock corporations, and chapter 415B, relating to the voluntary dissolution of nonstock corporations, shall apply, as the case may be, to associations formed under this chapter except that the dissolution shall be approved at a meeting duly called and held for the purpose by not less than two-thirds of the voting power voting thereon.”

SECTION 5. Section 421H-1, Hawaii Revised Statutes, is amended to read as follows:

“[§421H-1] Definitions. As used in this chapter, unless otherwise indicated by the context:

[(1)] “Corporate equity” means the excess of the current fair market value of the corporation’s assets, including its real property, over the sum of the current transfer values of all shares or membership interests, reduced by the principal balance of outstanding encumbrances upon the corporate real property as a whole.

[(2)] “Limited-equity housing cooperative” means a stock cooperative corporation which is organized as a nonprofit corporation under [sections 416-19 and 416-26] chapter 415B for the purpose of holding title to, either in fee simple or for a term of years, improved real property, if all or substantially all of the shareholders of such corporation receive a right of exclusive occupancy in a portion of the real property, title to which is held by the corporation, which right of occupancy is transferable only concurrently with the transfer of the share or shares of stock in the corporation held by the person having such right of occupancy; provided the corporation also:

[(A)] (1) Is organized so that the consideration paid for an individual membership share by the first occupant following construction or acquisition by the corporation, including the principal amount of obligation incurred to finance the membership share, does not exceed seven per cent of the respective dwelling unit’s development cost, acquisition cost, or of the fair market value appraisal by the permanent lender, whichever is greater; and

[(B)] (2) Holds title to real property as the beneficiary of a trust providing for distribution for public or charitable purposes upon termination of the trust; or

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- [(C)] (3) Holds title to real property subject to conditions which will result in reversion to a public or charitable entity for affordable housing upon dissolution of the corporation; or
- [(D)] (4) Holds a leasehold interest conditioned on the corporation's continued qualification under this chapter and providing for reversion to a public entity or charitable corporation for affordable housing."

SECTION 6. Section 422-5, Hawaii Revised Statutes, is amended to read as follows:

"§422-5 Name. Section [415-8] 415B-7 shall apply to associations formed under this chapter and any association organized under this chapter may use the word "cooperative" as a part of its name, notwithstanding section 421-5."

SECTION 7. Section 422-34, Hawaii Revised Statutes, is amended to read as follows:

"§422-34 Voluntary dissolution. Chapter 415, relating to the voluntary dissolution of stock corporations, and chapter 415B, relating to the voluntary dissolution of nonstock corporations, shall apply, as the case may be, to associations formed under this chapter except that the dissolution shall be approved at a meeting duly called and held for the purpose by not less than two-thirds of the voting power voting thereon."

SECTION 8. Section 423-1, Hawaii Revised Statutes, is amended to read as follows:

"§423-1 Dental service corporation, formation. A nonprofit dental service corporation may be formed for the purposes of contracting with individuals and corporations, both public and private, for defraying or assuming the costs of services of dentists and dental surgeons, and the contracting on behalf of dentists and dental surgeons to furnish such services. The director of commerce and consumer affairs shall grant to applicants who file [a petition] articles of incorporation in conformity with section [416-20] 415B-34 a charter of incorporation for the establishment and conduct of a dental service corporation; provided that the corporation may not engage directly or indirectly in the performance of the corporate purposes or objects unless all of the following requirements are met:

- (1) [At least one-fourth of all] Fifty licensed dentists and dental surgeons in this State become members of the corporation;
- (2) Membership in the corporation and an opportunity to render professional services upon a uniform basis are available to all licensed dentists and dental surgeons in this State;
- (3) Voting by proxy and cumulative voting are prohibited; and
- (4) Certificate of compliance with the requirements of paragraphs (1), (2), and (3) has been issued to the corporation by the board of dental examiners.

Any charter granted or corporation created under authority of this section shall be subject to all general laws enacted in regard to nonprofit corporations."

SECTION 9. Section 424-1, Hawaii Revised Statutes, is amended to read as follows:

"§424-1 General provisions. A nonprofit optometric service corporation may be formed for the purposes of contracting with individuals and corporations,

both public and private, for defraying or assuming the costs of services of optometrists, and the contracting on behalf of optometrists to furnish such services. The director of commerce and consumer affairs shall grant to applicants who file [a petition] articles of incorporation in conformity with section [416-20] 415B-34 a charter of incorporation for the establishment and conduct of an optometric service corporation; provided that the corporation may not engage directly or indirectly in the performance of the corporate purposes or objects unless all of the following requirements are met:

- (1) At least twenty-five per cent of all licensed optometrists in this State become members of the corporation;
- (2) Membership in the corporation and an opportunity to render professional services upon a uniform basis are available to all licensed optometrists in this State;
- (3) Voting by proxy and cumulative voting are prohibited; and
- (4) Certificate of compliance with the requirements of paragraphs (1), (2), and (3) has been issued to the corporation by the board of examiners in optometry.

Any charter granted or corporation created under authority of this section shall be subject to all general laws enacted in regard to nonprofit corporations."

SECTION 10. Section 485-5, Hawaii Revised Statutes, is amended to read as follows:

"§485-5 Exempted securities; local development company. Securities issued by a local development company organized within the State for profit under [the general corporation laws] chapter 415 and approved by the Small Business Administration as qualifying for loans under section 502 of the Small Business Investment Act of 1958, as amended, are exempted from this chapter, except such provisions relating to the prospectus, upon the approval of the commissioner of securities. The commissioner shall grant approval for the exemption upon finding that the proposed plan of business of the applicant and the proposed issuance of securities are fair, just, and equitable, that the applicant intends to transact its business fairly and honestly, and that the securities that the applicant proposes to issue and the method to be used by the applicant in issuing or disposing of such securities are not such as, in the opinion of the commissioner, will work a fraud upon the purchaser thereof."

SECTION 11. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved June 15, 1988.)

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H.B. NO. 2785

A Bill for an Act Relating to Business Registration.

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

SECTION 1. Section 415-19, Hawaii Revised Statutes, is amended to read as follows:

"[§415-19] Payment for shares. [The consideration for the issuance of shares may be paid, in whole or in part, in money, in other property, tangible or

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intangible, or in labor or services actually performed for the corporation. When payment of the consideration for which shares are to be issued shall have been received by the corporation, such shares shall be nonassessable.

Neither promissory notes nor future services shall constitute payment or part payment for the issuance of shares of a corporation.

In the absence of fraud in the transaction, the judgment of the board of directors or the shareholders, as the case may be, as to the value of the consideration received for shares shall be conclusive.]

(a) The powers granted in this section to the board of directors may be reserved to the shareholders by the articles of incorporation.

(b) The board of directors may authorize shares to be issued for consideration consisting of any tangible or intangible property or benefit to the corporation, including cash, promissory notes, services performed, contracts for services to be performed, or other securities of the corporation.

(c) Before the corporation issues shares, the board of directors must determine that the consideration received or to be received for shares to be issued is adequate. That determination by the board of directors is conclusive insofar as the adequacy of consideration for the issuance of shares relates to whether the shares are validly issued, fully paid, and nonassessable.

(d) When the corporation receives the consideration for which the board of directors authorized the issuance of shares, the shares issued therefor are fully paid and nonassessable.

(e) During the first two years after incorporation the corporation shall, and thereafter the corporation may place in escrow shares issued for a contract for future services or benefits or a promissory note, or make other arrangements to restrict the transfer of the shares. The corporation may credit distributions in respect of the shares against their purchase price, until the services are performed, the note paid, or the benefits received. If the services are not performed, the note is not paid, or the benefits are not received, the shares escrowed or restricted and the distributions credited may be cancelled in whole or in part.

(f) If a corporation issues or authorizes issuance of shares for promissory notes or for promises to render services in the future, the corporation shall report in writing to the shareholders the number of shares authorized or issued, and the consideration received by the corporation, with or before the notice of the next shareholders' meeting.

SECTION 2. Section 415-29, Hawaii Revised Statutes, is amended to read as follows:

“**§415-29 Notice of shareholders' meetings.** Written notice stating the place, day, and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten nor more than [fifty] seventy days before the date of the meeting, either personally or by mail, by or at the direction of the president, the secretary, or the officer or persons calling the meeting, to each shareholder of record entitled to vote at the meeting. If mailed, the notice shall be deemed to be delivered when deposited in the United States mail addressed to the shareholder at the shareholder's address as it appears on the stock transfer books of the corporation, with postage thereon prepaid.”

SECTION 3. Section 415-30, Hawaii Revised Statutes, is amended to read as follows:

“**§415-30 Closing of transfer books and fixing record date.** For the purpose of determining shareholders entitled to notice of or to vote at any meeting

of shareholders or any adjournment thereof, or entitled to receive payment of any dividend, or in order to make a determination of shareholders for any other proper purpose, the board of directors of a corporation may provide that the stock transfer books shall be closed for a stated period but not to exceed, in any case, [fifty] seventy days. If the stock transfer books shall be closed for the purpose of determining shareholders entitled to notice of or to vote at a meeting of shareholders, the books shall be closed for at least ten days immediately preceding the meeting. In lieu of closing the stock transfer books, the bylaws, or in the absence of an applicable bylaw, the board of directors may fix in advance a date as the record date for any such determination of shareholders, the date in any case to be not more than [fifty] seventy days and, in case of a meeting of shareholders, not less than ten days prior to the date on which the particular action, requiring the determination of shareholders, is to be taken. If the stock transfer books are not closed and no record date is fixed for the determination of shareholders entitled to notice of or to vote at a meeting of shareholders, or shareholders entitled to receive payment of a dividend, the date on which notice of the meeting is mailed or the date on which the resolution of the board of directors declaring the dividend is adopted, as the case may be, shall be the record date for the determination of shareholders. When a determination of shareholders entitled to vote at any meeting of shareholders has been made as provided in this section, such determination shall apply to any adjournment thereof."

SECTION 4. Section 415-61, Hawaii Revised Statutes, is amended to read as follows:

"§415-61 Articles of amendment. The articles of amendment shall be delivered to and filed by the director and shall set forth:

- (1) The name of the corporation;
- (2) The amendments so adopted which shall be identified by the numerical or other designation thereof in the articles of incorporation;
- (3) The date of the adoption of the amendment by the shareholders, or by the board of directors [where no shares have been issued;] without shareholder action;
- (4) The number of shares outstanding, the number of shares entitled to vote thereon, and if the shares of any class are entitled to vote;
- (5) The number of shares voted for and against the amendment respectively, and, if the shares of any class are entitled to vote thereon as a class, the number of shares of each such class voted for and against the amendment, respectively, or if no [shares have been issued,] vote of shareholders was taken, a statement to that effect[;] and that shareholder action was not required; and
- (6) If the amendment provides for an exchange, reclassification, or cancellation of issued shares, and if the manner in which the same shall be effected is not set forth in the amendment, then a statement of the manner in which the same shall be effected."

SECTION 5. Section 415-73, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) After the approval by a vote of the shareholders of each of the corporations, and at any time prior to the filing of the articles of merger[,] or consolidation, [or share exchange, the merger, consolidation, or share exchange may be abandoned pursuant to provisions therefor, if any, set forth in the plan] the board of directors of each corporation, in its discretion, may abandon the merger or

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consolidation, subject to the rights of other parties under any contracts relating thereto, without further action or approval of the shareholders.

After approval by the vote of shareholders of the acquired corporation, the board of directors of each corporation, in its discretion, may abandon the share exchange, subject to the rights of any other parties under any contracts relating thereto, without further action or approval of the shareholders.”

SECTION 6. Section 415-75, Hawaii Revised Statutes, is amended by amending subsection (b), (c), and (d) to read as follows:

“(b) A copy of the plan of merger shall be mailed to each shareholder of record of the subsidiary corporation[.], except the corporation owning at least ninety per cent of the outstanding shares.

(c) Articles of merger shall be delivered to the director for filing and shall set forth:

- (1) The plan of merger;
- (2) The number of outstanding shares of each class of the subsidiary corporation and the number of shares of each class owned by the surviving corporation; and
- (3) The date of the mailing to shareholders of the subsidiary corporation entitled to receive the plan of a copy of the plan of merger.

(d) On and after the thirtieth day after the mailing of a copy of the plan of merger to shareholders of the subsidiary corporation or upon the waiver thereof by the holders of all outstanding shares, the articles of merger shall be delivered to the director for filing [pursuant to section 415-55].”

SECTION 7. Section 415-75.5, Hawaii Revised Statutes, is amended to read as follows:

“[[§415-75.5]] **Merger of subsidiary corporations.** (a) Any corporation owning at least ninety per cent of the outstanding shares of each class of two or more corporations may adopt a plan of merger pursuant to section 415-75(a) and deliver to the director for filing articles of merger. The articles of merger shall be signed by [any two officers of] the parent corporation and [any two officers of] the surviving subsidiary corporation, and shall set forth:

- (1) The name of the parent corporation owning at least ninety per cent of the shares of the subsidiary corporations, the name of [the] any non-surviving subsidiary corporation, and the name of the surviving subsidiary corporation; and
- (2) The manner and basis of converting the shares of [the] any nonsurviving subsidiary corporation into shares, obligations, or other securities of the surviving subsidiary corporation or of any other corporation or, in whole or in part, into cash or other property.

(b) A copy of the plan of merger shall be mailed to each shareholder of record of [the] any nonsurviving subsidiary corporation[.], except the parent corporation.

(c) Articles of merger shall be delivered to the director for filing and shall set forth:

- (1) The plan of merger;
- (2) The number of outstanding shares of each class of [the] any nonsurviving subsidiary corporation and the number of such shares of each class owned by the [surviving subsidiary] parent corporation; and

- (3) The date of the mailing to shareholders of [the] any nonsurviving subsidiary [corporations] corporation entitled to receive the plan of a copy of the plan of merger.
- (d) On and after the thirtieth day after the mailing of a copy of the plan of merger to shareholders of [the] any nonsurviving subsidiary corporation or upon the waiver thereof by the holders of all outstanding shares, the articles of merger shall be delivered to the director for filing.”

SECTION 8. Section 415-82, Hawaii Revised Statutes, is amended to read as follows:

“§415-82 Voluntary dissolution by incorporators[.] or initial directors. A corporation which has not commenced business [and] or which has not issued any shares, may be voluntarily dissolved by its incorporators or initial directors at any time in the following manner:

Articles of dissolution shall be delivered to the director for filing and shall set forth:

- (1) The name of the corporation;
- (2) The date of its incorporation;
- (3) [That] Either (A) that none of its shares has been issued[;], or (B) that the corporation has not commenced business;
- (4) That the corporation has not commenced business;
- (5) (4) That the amount, if any, actually paid in on subscriptions for its shares, less any part thereof disbursed for necessary expenses has been returned to those entitled thereto;
- ((6)) (5) That no debts of the corporation remain unpaid; and
- ((7)) (6) That a majority of the incorporators or initial directors elect that the corporation be dissolved.

Upon the filing of the articles of dissolution, the existence of the corporation shall cease.”

SECTION 9. Section 415-83, Hawaii Revised Statutes, is amended to read as follows:

“§415-83 Voluntary dissolution by consent of shareholders. A corporation may be voluntarily dissolved by the written consent of all of its shareholders.

Upon the execution of the written consent, a statement of intent to dissolve shall set forth:

- (1) The name of the corporation;
- (2) The names and respective residence addresses of its officers;
- (3) The names and respective residence addresses of its directors;
- (4) A copy of the written consent signed by all shareholders of the corporation; and
- (5) A statement that the written consent has been signed by all shareholders of the corporation[.], or signed in their names by their attorneys therunto duly authorized.”

SECTION 10. Section 415-95, Hawaii Revised Statutes, is amended to read as follows:

“§415-95 Involuntary; ordered by director and certificates, notices; reinstatement. (a) Whenever the director certifies the name of a corporation as having given any cause for dissolution pursuant to section 415-94, the director may declare the corporation dissolved. Before the director may declare a corporation dissolved, the director shall:

- (1) Give notice of the ground or grounds for dissolution as provided in section 415-94, by mailing the notice to the corporation at its last known address appearing in the records of the director; and
 - (2) Give notice of the intention to dissolve the corporation by publishing the notice once in each of three successive weeks (three publications) in a newspaper of general circulation published in the State.
- (b) Parties of interest may petition a court of competent jurisdiction to appoint a trustee to settle the affairs of any corporation so dissolved. If a trustee is appointed, the trustee shall pay to the State out of any funds that may come into the trustee's hands as trustee, a sum equal to any penalty imposed under section 415-135. If a trustee is not appointed by a court of competent jurisdiction, the last directors of the dissolved corporation shall be and act as trustees for the creditors and shareholders of the dissolved corporation with full powers to settle its affairs.
- (c) The director shall, in each case, deliver a copy of the decree of dissolution to the director of taxation and to the finance officer of each county.
- (d) In each case where the director has given a corporation notice of intention to dissolve the corporation on the grounds that its articles of incorporation have been procured through fraud, the corporation shall be entitled to petition for an administrative hearing under chapter 91 and shall give written notice to the director thereof, before the director may declare the corporation dissolved under subsection (a) of this section.
- (e) Within ninety days after the involuntary dissolution of a corporation under this section, the corporation may be reinstated by the director upon written application executed by any two officers of the corporation setting forth such information as the director may require, and the payment of all delinquent fees, penalties, assessments, taxes, costs of involuntary dissolution, and the filing of all reports due and unfiled. Within the ninety-day period, should the name of the corporation, or a name substantially identical thereto be registered or reserved by another corporation or partnership, or should such name or a name substantially identical thereto be registered as a trade name, then reinstatement shall be allowed only upon the registration of a new name by the involuntarily dissolved corporation pursuant to the amendment provisions of this chapter.
- (f) A corporation whose articles of incorporation have expired shall cease to exist by operation of law.

(g) Any party of interest, including the director, may petition any judge of the first circuit to liquidate a corporation pursuant to section 415-98 when it appears that liquidation of its business and assets should precede the entry of a decree of dissolution.”

SECTION 11. Section 415-131, Hawaii Revised Statutes, is amended to read as follows:

“§415-131 Annual license mandatory; exceptions; fees. No foreign corporation [except foreign insurance companies and foreign nonprofit corporations] shall do or carry on business in the State unless it shall first have obtained from the director an annual license to do so. Every such corporation shall pay to the director an annual license fee of \$100. The license fee shall be assessed on the basis of the fiscal year from July 1 to June 30. The first license fee due upon qualification shall be prorated according to the month of qualification and shall be as follows:

July - December \$100

January - June \$50

The director may settle and collect an account against any corporation violating this section for the amount of the license fee together with a penalty of fifty

per cent for failure to pay the same. The director may, for good cause shown, reduce or waive the penalty."

SECTION 12. Section 415B-68, Hawaii Revised Statutes, is amended to read as follows:

"§415B-68 Officers. The officers of a corporation shall consist of a president, a vice-president, a secretary, a treasurer, and such other officers and assistant officers as may be deemed necessary and as prescribed in the articles of incorporation. Each officer shall be elected or appointed at such time and in such manner and for such terms as may be prescribed in the articles of incorporation or the bylaws. In the absence of any such provision, all officers shall be elected or appointed annually by the board of directors. If the articles of incorporation so provide, any two or more offices may be held by the same [person;] individual; provided the corporation shall have at least two [persons] individuals as officers.

The articles of incorporation or the bylaws may provide that any one or more officers of the corporation shall be [ex officio] ex-officio members of the board of directors.

The officers of a corporation may be designated by such additional titles as may be provided in the articles of incorporation.

All officers and agents of the corporation, as between themselves and the corporation, shall have such authority and perform such duties in the management of the corporation as may be provided in the bylaws, or as may be determined by resolution of the board of directors not inconsistent with the bylaws."

SECTION 13. Section 415-162, Hawaii Revised Statutes, is amended to read as follows:

"§415-162 Effect of chapter on existing corporations. The existence of corporations formed or existing on the date of enactment of this chapter or the voting requirements in the articles of incorporation of any such corporation shall not be affected by the enactment of this chapter nor by any change in the requirement or repeal of the laws under which they were formed or created.

Neither the repeals effected by the enactment of this chapter nor the amendment thereof shall impair or take away any existing liability, cause of action, or right against any corporation, its shareholders, directors, or officers incurred prior to the time of the enactment or amendment.

Nothing in this chapter shall affect the validity of any action taken by any corporation, or shall impair or affect the validity of any provision of the articles of incorporation or bylaws adopted by any corporation, prior to the effective date of this chapter.

If provisions of articles of incorporation and bylaws which were adopted by a corporation prior to July 1, 1987 and which are still effective at the time of a particular action or transaction do not provide for a means of effectuating that action or transaction in a manner which would be valid but for this chapter and the repeal of former chapter 416 as it existed immediately prior to July 1, 1987, then to the extent not in conflict with those provisions, this chapter shall apply to that action or transaction.

Notwithstanding anything in this section to the contrary, any provision of any articles of incorporation or bylaws whether or not adopted prior to July 1, 1987 shall be ineffective to the extent that it attempts or purports to vary the requirements for the informational content, execution, delivery, filing and effectiveness of any document required to be delivered to the director pursuant to this chapter."

SECTION 14. Section 415-118, Hawaii Revised Statutes, is repealed.

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SECTION 15. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 16. This Act shall take effect upon its approval.

(Approved June 15, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

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H.B. NO. 2788

A Bill for an Act Relating to Business Registration.

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

SECTION 1. Chapter 415, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

“§415- Filing requirements; filing duty of the director. (a) A document must satisfy the requirements of this section, and of any other section that adds to or varies from these requirements, to be entitled to filing by the director.

(b) The document must contain the information required by this chapter. It may contain other information as well.

(c) If the director has prescribed a mandatory form for the document, the document must be in or on the prescribed form.

(d) The director's duty to file documents under this chapter is ministerial. The filing or refusal to file a document does not:

- (1) Affect the validity or invalidity of the document in whole or part;
- (2) Relate to the correctness or incorrectness of information contained in the document; and
- (3) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

§415- Correcting a filed document. (a) A domestic or foreign corporation may correct a document filed by the director if the document:

- (1) Contains an incorrect statement; or
- (2) Was defectively executed, attested, sealed, verified, or acknowledged.

(b) A document is corrected:

- (1) By preparing articles of correction that:
 - (A) Describe the document including its file date or attach a copy of it to the articles;
 - (B) Specify the incorrect statement and the reason it is incorrect or the manner in which the execution was defective; and
 - (C) Correct the incorrect statement or defective execution; and
- (2) By delivering the articles to the director for filing.

(c) Articles of correction are effective on the effective date of the document they correct, except as to persons relying on the uncorrected document and adversely affected by the correction. As to those persons, articles of correction are effective when filed.”

SECTION 2. Section 415-50, Hawaii Revised Statutes, is amended to read as follows:

“§415-50 Officers. The officers of a corporation shall consist of a president, one or more vice-presidents as may be prescribed by the bylaws, a secretary, and

a treasurer, each of whom shall be elected or appointed by the board of directors at such time and in such manner as may be prescribed by the bylaws. Such other officers and assistant officers and agents as may be deemed necessary may be elected or appointed by the board of directors or chosen in such other manner as may be prescribed by the bylaws. Any two or more offices may be held by the same individual; provided that every corporation which has two or more directors shall have not less than two individuals as officers.

All officers and agents of the corporation, as between themselves and the corporation, shall have such authority and perform such duties in the management of the corporation as may be provided in the bylaws, or as may be determined by resolution of the board of directors not inconsistent with the bylaws."

SECTION 3. Section 415-54, Hawaii Revised Statutes, is amended to read as follows:

"§415-54 Articles of incorporation. (a) The articles of incorporation shall be delivered to and filed by the director and shall set forth:

- (1) The name of the corporation;
- [2] The period of duration, which may be perpetual;
- (3) The primary specific purpose, and such other purposes for which the corporation is organized which may be stated to be, or to include, the transaction of any or all lawful business for which corporations may be incorporated under this chapter;
- [4] (2) The aggregate number of shares which the corporation shall have authority to issue, and, if the shares are to be divided into classes, the number of shares of each class;
- [5] If the shares are to be divided into classes, the designation of each class and a statement of the preferences, limitations, and relative rights in respect of the shares of each class;
- (6) If the corporation is to issue the shares of any preferred or special class in series, then the designation of each series and a statement of the variations in the relative rights and preferences as between series insofar as the same are to be fixed in the articles of incorporation, and a statement of any authority to be vested in the board of directors to establish series and fix and determine the variations in the relative rights and preferences as between series;
- (7) If any preemptive right is to be granted to shareholders, the provisions therefor;
- [8] (3) The mailing address of its initial or principal office; provided that where no specific street address is available, the rural route post office number or post office box designated or made available by the United States Postal Service;
- [9] (4) The number of directors constituting the initial board of directors and the names and residence addresses of the individuals who are to serve as directors until the first annual meeting of shareholders or until their successors are elected and qualified; provided that where no specific street address is available, the rural route post office number or post office box designated or made available by the United States Postal Service; and
- [10] (5) The name, title, and residence address of each officer; provided that where no specific street address is available, the rural route post office number or post office box designated or made available by the United States Postal Service[;

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- (11) The names of the initial subscribers for shares of each class and the number of shares subscribed for;
- (12) The subscription price or prices for shares of each class subscribed for by each initial subscriber, and if it is to be paid in other than cash, the consideration in which it is to be paid; and
- (13) The amount of capital and paid-in surplus, if any, paid in by each initial subscriber, separately stating the amount paid in cash and in property].

(b) It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this chapter.

(c) In addition to provisions required therein, the articles of incorporation may also contain [provisions not inconsistent with law regarding]:

- [1] The direction of the management of the business and the regulation of the affairs of the corporation;
- (2) The definition, limitation, and regulation of the powers of the corporation, the directors, and the shareholders, or any class of the shareholders, including restrictions on the transfer of shares;
- (3) The par value of any authorized shares or class of shares; and
- (4) Any provision which under this chapter is required or permitted to be set forth in the bylaws.]
 - (1) The period of duration, if less than perpetual;
 - (2) Limitations, if any, upon the purpose for which the corporation is organized;
 - (3) If the shares are to be divided into classes, the designation of each class and a statement of the preferences, limitations, and relative rights in respect of the shares of each class and in the absence of such a provision, all shares shall be common stock of the same class;
 - (4) If the corporation is to issue the shares of any preferred or special class in series, then the designation of each series and a statement of the variations in the relative rights and preferences as between series insofar as the same are to be fixed in the articles of incorporation, and a statement of any authority to be vested in the board of directors to establish series and fix and determine the variations in the relative rights and preferences as between series, and in the absence of any such provision, no class of shares may be issued in series and the board of directors shall have no such authority;
 - (5) If any preemptive right by shareholders is to be expanded, denied, restricted, or limited, the provisions therefor;
 - (6) The names of the initial subscribers for shares of each class and the number of shares subscribed for;
 - (7) The subscription price or prices for shares of each class subscribed for by each initial subscriber, and if it is to be paid in other than cash, the consideration in which it is to be paid;
 - (8) The amount of capital and paid-in surplus, if any, paid in by each initial subscriber, separately stating the amount paid in cash and in property; and
 - (9) Provisions not inconsistent with law regarding:
 - (A) The direction of the management of the business and the regulation of the affairs of the corporation;
 - (B) The definition, limitation, and regulation of the powers of the corporation, the directors, and the shareholders, or any class of the shareholders, including restrictions on the transfer of shares;

- (C) The par value of any authorized shares or class of shares; and
- (D) Any provision which under this chapter is required or permitted to be set forth in the bylaws."

SECTION 4. Section 415-55, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Any document required to be delivered to the director for filing pursuant to this chapter shall be:

- (1) Certified and executed by:
 - (A) An individual intending to organize a corporation or an incorporator, if the corporation has not been organized; or
 - (B) Two individuals who are officers of the corporation, if the corporation has been organized[; and has more than one individual as an officer, or one individual who is all of the officers of the corporation if the corporation has only one individual as an officer; or
 - (C) A majority of incorporators or initial board of directors with respect to articles of dissolution delivered pursuant to section 415-82; or
 - (D) Any person or persons as the court shall designate or appoint in a reorganization or bankruptcy proceeding or other court proceeding; and
- (2) Delivered to the director."

SECTION 5. Section 415A-14.6, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) The articles of incorporation must set forth:

- (1) A corporation¹ name for the corporation that satisfies the requirements of section 415A-8;
 - (2) The profession or professions that the corporation shall be authorized to practice and any other purpose allowed by the licensing laws and rules of the State; and
 - (3) The matters specified in section [415-54 (a)(2), (4), (5), (6), (7), (11), (12), and (13).] 415-54 (a).
- (b) The articles of incorporation may set forth any of the matters specified in section [415-54 (b).] 415-54 (c)."

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.²

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

(Approved June 15, 1988.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

ACT 373

H.B. NO. 3321

A Bill for an Act Relating to Business Registration.

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

SECTION 1. Section 415-28, Hawaii Revised Statutes, is amended to read as follows:

“[[§415-28]] Meetings of shareholders. Meetings of shareholders may be held at such place within or without this State as may be stated in or fixed in accordance with the bylaws. If no other place is stated or so fixed, meetings shall be held at the [registered] principal office of the corporation.

An annual meeting of the shareholders shall be held at such time as may be stated in or fixed in accordance with the bylaws. If the annual meeting is not held within any thirteen-month period any circuit court may, on the application of any shareholder, summarily order a meeting to be held.

Special meetings of the shareholders may be called by the board of directors, the holders of not less than one-tenth of all the shares entitled to vote at the meeting, or such other persons as may be authorized in the articles of incorporation or the bylaws.”

SECTION 2. Section 415-34, Hawaii Revised Statutes, is amended to read as follows:

“§415-34 Voting trusts and agreements among shareholders. Any number of shareholders of a corporation may create a voting trust for the purpose of conferring upon a trustee or trustees the right to vote or otherwise represent their shares, for a period of not to exceed ten years, by entering into a written voting trust agreement specifying the terms and conditions of the voting trust, by depositing a counterpart of the agreement with the corporation at its [registered] principal office, and by transferring their shares to the trustee or trustees for the purposes of the agreement. The trustee or trustees shall keep a record of the holders of voting trust certificates evidencing a beneficial interest in the voting trust, giving the names and addresses of all of the holders and the number and class of the shares in respect of which the voting trust certificates held by each are issued, and shall deposit a copy of the record with the corporation at its [registered] principal office. The counterpart of the voting trust agreement and the copy of the record so deposited with the corporation shall be subject to the same right of examination by a shareholder of the corporation, in person or by agent or attorney, as are the books and records of the corporation, and the counterpart and the copy of the record shall be subject to examination by any holder of record of voting trust certificates, either in person or by agent or attorney, at any reasonable time for any proper purpose.

Agreements among shareholders regarding the voting of their shares shall be valid and enforceable in accordance with their terms. Such agreements shall not be subject to the provisions of this section regarding voting trusts.”

SECTION 3. Section 415-74, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Upon receiving the approvals required by sections 415-71, 415-72, 415-72A, and 415-73, articles of merger or articles of consolidation shall be delivered to the director for filing [pursuant to section 415-55] and shall set forth:

- (1) The plan of merger, or the plan of consolidation;
- (2) Either (A) a statement that the vote of shareholders is not required by virtue of section 415-73(e), or (B) as to each corporation, the approval of whose shareholders is required, the number of shares outstanding, and, if the shares of any class were entitled to vote as a class, the designation and number of outstanding shares of each class; and
- (3) As to each corporation the approval of whose shareholders is required, the number of shares voted for and against the plan, respectively, and, if the shares of any class are entitled to vote as a class, the number of shares of each class voted for and against the plan, respectively."

SECTION 4. Section 415-81, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

- "(h) (1) Not more than sixty days after receiving a demand for payment pursuant to subsection (g), if any such demands for payment remain unsettled, the corporation shall file in an appropriate court a petition requesting that the fair value of the shares and interest thereon be determined by the court.
- (2) An appropriate court shall be a court of competent jurisdiction in the county of this State where the [registered] principal office of the corporation is located. If, in the case of a merger or consolidation or share exchange, the corporation is a foreign corporation without a registered office in this State, the petition shall be filed in the county where the [registered] principal office of the domestic corporation was last located.
- (3) All dissenters, wherever residing, whose demands have not been settled shall be made parties to the proceeding as in an action against their shares. A copy of the petition shall be served on each dissenter; if a dissenter is a nonresident, the copy may be served on the dissenter by registered or certified mail or by publication as provided by law.
- (4) The jurisdiction of the court shall be plenary and exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers shall have such power and authority as shall be specified in the order of their appointment or in any amendment thereof. The dissenters shall be entitled to discovery in the same manner as parties in other civil suits.
- (5) All dissenters who are made parties shall be entitled to judgment for the amount by which the fair value of their shares is found to exceed the amount previously remitted, with interest.
- (6) If the corporation fails to file a petition as provided in paragraph (1) of this subsection, each dissenter who made a demand and who has not already settled the dissenter's claim against the corporation shall be paid by the corporation the amount demanded by the dissenter, with interest, and may sue therefor in an appropriate court."

SECTION 5. Section 415-85, Hawaii Revised Statutes, is amended to read as follows:

"[§415-85] Filing of statement of intent to dissolve. The statement of intent to dissolve, whether by consent of shareholders or by act of the corporation, shall be delivered to and filed by the director [pursuant to section 415-55]."

SECTION 6. Section 415-87, Hawaii Revised Statutes, is amended to read as follows:

"§415-87 Procedure after filing of statement of intent to dissolve. After the filing by the director of a statement of intent to dissolve:

- (1) The corporation shall immediately cause notice thereof to be mailed to each known creditor of the corporation;
- (2) The corporation shall forthwith publish, once in each of four successive weeks (four publications) in a newspaper of general circulation published in the State, notice thereof to all creditors of the corporation. The corporation, with the approval of the director, may omit the publication of the notice if the corporation has insufficient assets to pay for the publication;
- (3) The corporation shall proceed to collect its assets, convey, and dispose of such of its properties as are not to be distributed in kind to its shareholders, pay, satisfy, and discharge its liabilities and obligations and do all other acts required to liquidate its business and affairs, and, after paying or adequately providing for the payment of all of its obligations, distribute the remainder of its assets, either in cash or in kind, among its shareholders according to their respective rights and interests; and
- (4) The corporation, at any time during the liquidation of its business and affairs, may make application to a court of competent jurisdiction within the [s]State and judicial subdivision in which the [registered] principal office or principal place of business of the corporation is situated, to have the liquidation continued under the supervision of the court as provided in this chapter."

SECTION 7. Section 415-88, Hawaii Revised Statutes, is amended to read as follows:

"§415-88 Revocation of voluntary dissolution proceedings by consent of shareholders. By the written consent of all of its shareholders, a corporation may, at any time prior to the filing [of] the articles of dissolution by the director, revoke voluntary dissolution proceedings theretofore taken, in the following manner:

Upon the execution of such written consent, a statement of revocation of voluntary dissolution proceedings shall set forth:

- (1) The name of the corporation;
- (2) The names and [respective] residence addresses of its officers;
- (3) The names and [respective] residence addresses of its directors;
- (4) A copy of the written consent signed by all shareholders of the corporation revoking the voluntary dissolution proceedings; and
- (5) That the written consent has been signed by all shareholders of the corporation or signed in their names by their attorneys thereunto duly authorized."

SECTION 8. Section 415-89, Hawaii Revised Statutes, is amended to read as follows:

"§415-89 Revocation of voluntary dissolution proceedings by act of corporation. By the act of the corporation, a corporation may, at any time prior to the filing [of] the articles of dissolution by the director, revoke voluntary dissolution proceedings theretofore taken, in the following manner:

- (1) The board of directors shall adopt a resolution recommending that the voluntary dissolution proceedings be revoked, and directing that the question of the revocation be submitted to a vote at a special meeting of shareholders;

- (2) Written notice, stating that the purpose or one of the purposes of the meeting is to consider the advisability of revoking the voluntary dissolution proceedings, shall be given to each shareholder of record entitled to vote at the meeting within the time and in the manner provided in this chapter for the giving of notice of special meetings of shareholders;
- (3) At the meeting, a vote of the shareholders entitled to vote thereat shall be taken on a resolution to revoke the voluntary dissolution proceedings, which shall require for its adoption the affirmative vote of the holders of a majority of the shares entitled to vote thereon and shall be adopted in the same manner as the dissolution was authorized in section 415-84; and
- (4) Upon the adoption of the resolution, a statement of revocation of voluntary dissolution proceedings shall set forth:
 - (A) The name of the corporation;
 - (B) The names and [respective] residence addresses of its officers;
 - (C) The names and [respective] residence addresses of its directors;
 - (D) A copy of the resolution adopted by the shareholders revoking the voluntary dissolution proceedings;
 - (E) The number of shares outstanding[.] and, if the shares of any class are entitled to vote as a class, the designation and number of the outstanding shares of each class; and
 - (F) The number of shares voted for and against the resolution, respectively[.], and, if the shares of any class are entitled to vote as a class, the number of shares of each class voted for and against the resolution, respectively.”

SECTION 9. Section 415-96, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) A provisional director shall be an impartial person, who is neither a shareholder [or member], nor a creditor, nor officer of the corporation, nor related by consanguinity or affinity within the third degree according to the common law to any of the other directors of the corporation or to any judge of the court by which the provisional director is appointed. A provisional director shall have all of the rights and powers of a director until the deadlock in the board or among the shareholders [or members] is broken or until the provisional director is removed by order of the court or by approval of shareholders [or members] holding a majority of the voting power. A provisional director shall be entitled to such compensation as shall be fixed by the court unless otherwise agreed with the corporation.”

SECTION 10. Section 415-126, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) [The first] Each annual report of a corporation shall be delivered to the director between January 1 and March 31 of each year in the case of a domestic corporation, or between January 1 and June 30 in the case of a foreign corporation, except that the first annual report of a corporation shall be filed between January 1 and March 31 in the case of a domestic corporation, or between January 1 and June 30 in the case of a foreign corporation, of the year next succeeding the calendar year in which its articles of incorporation or its application for a certificate of authority, as the case may be, was filed by the director.”

SECTION 11. Section 415A-14.8, Hawaii Revised Statutes, is amended to read as follows:

"[§]415A-14.8[] Organization of corporation. After incorporation, [the incorporator or incorporators, or] the initial director or directors, as the case may be, shall complete the organization of the corporation as provided in section 415-57."

SECTION 12. Section 415B-95, Hawaii Revised Statutes, is amended to read as follows:

"§415B-95 Filing of articles of dissolution. The articles of dissolution shall be delivered to the director for filing.

Upon the filing of the articles of dissolution[, the existence of the corporation shall cease, unless a date of dissolution, no] or upon a date subsequent to the filing as set forth in the articles, but not more than thirty days after [the filing is otherwise established in the articles.] being filed, the existence of the corporation shall cease, except for the purpose of any action, proceeding, or other appropriate corporate action by members, directors, and officers as permitted in this chapter."

SECTION 13. Section 419-2, Hawaii Revised Statutes, is amended to read as follows:

"§419-2 [Application for charter; petition;] Articles of incorporation; contents. [Application to the director of commerce and consumer affairs for a charter] Articles of incorporation under this chapter shall be [made by a written petition, verified] delivered to the director for filing, certified and executed by the bishop, chief priest, presiding elder, or other presiding officer forming the corporation sole[. The petition] and shall set forth:

- (1) The name of the corporation;
- (2) The name and address of the officer forming the corporation, the office which the officer holds in the church, and that the officer is duly authorized by the rules, regulations, or discipline of the church to take the action;
- (3) The boundaries of the district subject to the ecclesiastical jurisdiction of the officer forming the corporation sole, in accordance with the rules, regulations, or discipline of the church;
- (4) The place of the principal office of the corporation sole, which shall be in the State;
- (5) The term for which the corporation sole is organized, which may be perpetual;
- (6) The manner in which any vacancy occurring in the office of the bishop, chief priest, presiding elder, or other presiding officer forming the corporation sole is required to be filled by the rules, regulations, or constitution of the church;
- (7) Additional powers to be set forth in its [charter,] articles, in accordance with section [416-27;] 415B-5;
- (8) Any lawful provision for the regulation of the affairs of the corporation sole, including restrictions upon the power to amend all or any part of the [charter,] articles; and
- (9) That the corporation is not organized for profit.

If any [petition for a charter] articles of incorporation presented to the director under this chapter [is] are not in conformity with the requirements of this section the director shall[, within fifteen days,] return the same to the [petitioner] incorporator specifying wherein the same fails to conform with this section and the [petitioner] incorporator may amend the [petition] articles and present [it] them so amended. [A proposed form of the charter of incorporation shall accompany the

petition. The director may require additional proofs from the petitioner.] If the [petition or amended petition and the proposed charter] articles of incorporation are in conformity with law, the director shall [grant to the applicant a charter] file the articles of incorporation [as a corporation sole].”

SECTION 14. Section 419-4, Hawaii Revised Statutes, is amended to read as follows:

“§419-4 Amendment of [charter.] articles. Subject to the provisos set forth in this section, and subject to any lawful restrictions upon the power to amend the [charter of a corporation] articles of incorporation sole[, set forth in its petition] filed under section 419-2, the incumbent of the corporation may at any time amend the [charter of the corporation] articles of incorporation by changing its name, the term of its existence, the boundaries of the district subject to its jurisdiction, the place of its principal office, the manner of filling any vacancy in the incumbency thereof, its powers, or any provision of the [charter] articles for the regulation of the affairs of the corporation (except restrictions upon the power to amend the [charter],) articles, and may, by amendment of the [charter,] articles, make provision for any act or thing for which provision is authorized in original [charters of corporations] articles of incorporation sole formed under this chapter.

The incumbent of the corporation sole shall subscribe and verify a certificate which shall set forth the amendment either by stating that the [charter has] articles have been amended to read as set forth in the certificate in full or by stating that any provision or provisions of the [charter,] articles, which shall be identified by the numerical or other designation or designations thereof in the [charter] articles or by stating the wording thereof, has or have been amended to read as set forth in the certificate. The certificate shall further state that the amendment has been duly authorized by the rules, regulations, or discipline of the church of which the incumbent is an officer; provided that no amendment shall confer any other or greater powers or privileges than could lawfully be conferred or obtained in [an] the original [charter;] articles; provided further that no amendment shall become effective unless the same is allowed by the director of commerce and consumer affairs.”

SECTION 15. Section 419-5, Hawaii Revised Statutes, is amended to read as follows:

“§419-5 Name of incumbent; change in incumbency. There shall be filed, with the [petition for a charter,] articles of incorporation, a [certificate] statement duly [signed and acknowledged,] certified and executed, which shall state the name and address of the person who is to be its incumbent, to which shall be appended a duly attested copy of the certificate of appointment or other document through which the person succeeded to the ecclesiastical office by virtue of which the person became entitled to be the incumbent of the corporation sole. Whenever a change in the incumbency of the corporation occurs, the new incumbent, within thirty days after the new incumbent has become the incumbent, shall file with the director of commerce and consumer affairs a like certificate with like proof of the new incumbent's title to the office.”

SECTION 16. Section 419-7, Hawaii Revised Statutes, is amended to read as follows:

“§419-7 Extensions and renewals. The duration of the corporation, if not perpetual, may be extended by amendment of its [charter,] articles, and at any time

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not more than two years after the expiration of [a charter] its articles it may be renewed upon application to the director of commerce and consumer affairs for that purpose; provided that no renewal shall become effective until it is allowed by the director by and with the consent of the governor. Such application shall be made in the manner and form provided for amendment of [a charter,] articles, as nearly as may be."

SECTION 17. Section 421-1, Hawaii Revised Statutes, is amended by amending the definition of "articles" to read as follows:

" "Articles" means the articles of [association.] incorporation."

SECTION 18. Section 421-4, Hawaii Revised Statutes, is amended to read as follows:

"§421-4 Articles of [association.] incorporation. Articles of [association] incorporation shall be [signed and acknowledged] certified and executed by each of the incorporators, if natural persons, and by the president and secretary of associations[, before any officer authorized to take acknowledgments,] and shall contain the following particulars:

- (1) The name of the association;
- (2) The place of its principal office, which shall be in the State;
- (3) The purposes and powers of the association;
- (4) The proposed duration of the association;
- (5) The names and addresses of persons who are to act as the initial directors and officers of the association;
- (6) The names and [post office] addresses of the incorporators, and if organized with capital stock, a statement of the number of shares subscribed by each, which shall not be less than one, and the class of shares for which each subscribed;
- (7) Whether organized with or without capital stock, and if organized with capital stock the total authorized number of [par value] shares and the par value of each share, [and if the privilege of subsequent extension of the authorized capital stock is asked for, the limit of the extension;] if any; and if more than one class of stock is authorized, a description of the classes of shares, the number of shares in each class, the relative rights, preferences, and restrictions granted to or imposed upon the shares of each class, and the dividends to which each class shall be entitled;
- (8) If organized without capital stock, whether the property rights and interest of each member are equal or unequal, if unequal, the rule by which the rights and interests shall be determined.

The articles may also contain any other provisions, consistent with law for regulating the association's business or the conduct of its affairs, the establishment of voting districts, the election of delegates to represent the districts, and the members residing therein, for voting by proxy, and the issuance, retirement, and transfer of membership and stock."

SECTION 19. Section 421-6, Hawaii Revised Statutes, is amended by amending subsections (a) and (c) to read as follows:

"§421-6 Filing and recording articles of [association.] incorporation, etc. (a) The articles of [association, charters,] incorporation and any [certificates] articles of amendment thereof shall be [recorded] filed in the office of the director

of commerce and consumer affairs [in a book to be kept for the purpose, which] and shall at all times during business hours be open to the inspection of the public without charge.

(b) A certified copy of the articles or of a certificate of incorporation issued by the director shall be filed with the department of agriculture.

(c) On the filing of the articles of [association] incorporation with the director, the persons who have subscribed the articles, their associates, successors, and assigns, shall thereafter be a body corporate by the name and style provided in the articles; shall have succession and corporate existence for such term as shall have been agreed upon, which may be perpetual; shall have all of the powers and be subject to all of the liabilities provided for in this chapter; and shall be subject to all general laws in regard to the associations."

SECTION 20. Section 421-7, Hawaii Revised Statutes, is amended to read as follows:

"§421-7 Amendments of articles of incorporation. (a) An association may amend its articles of [association] incorporation by the affirmative vote of two-thirds of the members voting thereon at any regular meeting, or at a special meeting called for the purpose, or if the association permits its members to vote on the basis of patronage, by the affirmative vote of a majority of the members and of two-thirds of the patronage, voting thereon. A written or printed notice of the proposed amendment, and of the time and place of holding the meetings shall be delivered to each member, or mailed to the member's last known address as shown by the books of the association, at least thirty days prior to any such meetings. No amendment affecting the preferential rights of any outstanding stock shall be adopted until the written consent of the holders of two-thirds of the outstanding preference shares has been obtained.

(b) After an amendment has been adopted, articles of amendment shall be [signed and sworn to] certified and executed by the president or vice president and by the treasurer or secretary or assistant secretary, and filed as in the case of articles of [association,] incorporation, including the payment of fees."

SECTION 21. Section 421C-1, Hawaii Revised Statutes, is amended by amending the definition of "articles" to read as follows:

" "Articles" means[, for stock associations,] the articles of incorporation [of a stock association, or, for nonstock associations, the charter of incorporation of a nonstock association]."'

SECTION 22. Section 421C-3, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Associations may amend their articles upon [petition to and] approval by the director of commerce and consumer affairs of articles of amendment to convert from a stock association to a nonstock association or vice-versa. This subsection may be employed by an association only once every two calendar years."

SECTION 23. Section 421C-11.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Articles shall be [signed and acknowledged] certified and executed by each of the incorporators, if natural persons, and by the president and secretary of associations, before any officer authorized to take acknowledgments, and shall contain the following particulars:

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- (1) The name of the association which shall contain the term "cooperative" or some abbreviation thereof notwithstanding section 421-5;
- (2) The street address and zip code of its principal office, which shall be in the State;
- (3) The purposes and powers of the association;
- (4) The duration of the association;
- (5) The number, names, titles, and residence addresses of the initial officers and directors, or similar officers;
- (6) The names and [post office] addresses of the incorporators, and if organized with stock, a statement of the number of shares subscribed by each, which shall not be less than one, and the class of shares for which each subscribed;
- (7) If organized with stock, the total authorized number of [par value] shares and the par value of each share, [and if the privilege of subsequent extension of the authorized stock is asked for, the limit of the extension;] if any; and if more than one class of stock is authorized, a description of the classes of shares, the number of shares in each class, the relative rights, preferences, and restrictions granted to or imposed upon the shares of each class, and the interest-dividends to which each class shall be entitled;
- (8) If organized without stock, whether the property rights and interest of each member are equal or unequal, if unequal, the rule by which the rights and interest shall be determined."

SECTION 24. Section 421H-2, Hawaii Revised Statutes, is amended to read as follows:

"§421H-2 [Charter] Articles of incorporation. (a) The [charter] articles of incorporation and bylaws shall require the purchase and sale of the stock of resident owners who cease to be residents, at not more than a transfer value determined as provided in the [charter] articles and bylaws, and which shall not exceed the aggregate of the following:

- (1) The consideration paid for the membership share by the first occupant of the unit involved, as shown on the books of the corporation.
- (2) Accumulated interest, or an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market-interest index. Any increment pursuant to this paragraph shall not exceed a ten per cent annual increase on the consideration paid for the membership or share by the first occupant of the unit involved.
- (3) The value, as determined by the board of directors of the corporation, of any improvements installed at the expense of the member with the prior approval of the board of directors.
- (4) No other charges, fees, premiums, taxes, or payments or exchanges of any kind may be imposed, assessed, or made a condition of any transfer.

(b) The [charter] articles of incorporation and bylaws shall require the board of directors or corporate members to sell the stock purchased as provided in subsection (a) to new resident shareholders at a price which does not exceed the transfer value paid for the unit. Upon termination or dissolution of the corporation, the then existing stockholders shall be paid an amount that does not exceed the transfer value of their share.

(c) Amendment of the [charter] articles of incorporation shall require the affirmative vote of at least two-thirds of the resident shareholders.

(d) The [charter] articles of incorporation and bylaws shall require:

- (1) The corporation issue only one class of stock;
- (2) One share shall be issued for each dwelling unit in the cooperative;
- (3) Voting rights shall be based upon one share, one vote; and
- (4) Each shareholder shall be a resident of the unit represented by the share held.

(e) The [charter] articles of incorporation and bylaws shall require a provision that there shall not be any social, political, racial, or religious discrimination nor any discrimination on the basis of age, sex, marital, or parental status, subject only to limitations under applicable federal, state, or county laws, rules, or regulations."

SECTION 25. Section 422-2, Hawaii Revised Statutes, is amended by amending the definition of "articles" to read as follows:

" "Articles" means the articles of [association;] incorporation;"

SECTION 26. Section 422-9, Hawaii Revised Statutes, is amended to read as follows:

"§422-9 Filing of articles. Articles of incorporation must be [signed, acknowledged,] certified, executed, and filed in the manner prescribed by the laws of the State for domestic corporations."

SECTION 27. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 28. This Act shall take effect upon its approval.

(Approved June 15, 1988.)

ACT 374

H.B. NO. 2067

A Bill for an Act Relating to the Protection of Environmental Resources.

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

SECTION 1. Chapter 188, Hawaii Revised Statutes, is amend by adding a new section to be appropriately designated and to read as follows:

"§188- Stony coral; taking prohibited. The taking of live stony coral of the taxonomic order, Madreporaria, including the Fungidae or Pocilloporidae families, for any reason, is prohibited except with a permit authorized under section 187A-6 or section 183-41."

SECTION 2. Section 188-70, Hawaii Revised Statutes, is amended by amending subsection (c) as follows:

"(c) In addition to the above penalties, for the first conviction a fine of up to [\$25] \$100 may be levied for each specimen of aquatic life taken illegally under this chapter; provided that for every subsequent conviction within five years of the first conviction, a fine of up to [\$25] \$100 shall be levied for each specimen of aquatic life taken illegally under this chapter."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

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

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(Approved June 15, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 375

H.B. NO. 2271

A Bill for an Act Relating to the Shoreline.

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

SECTION 1. Section 205A-44, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The mining or taking of sand, dead coral[,] or coral rubble, rocks, soil, or other beach or marine deposits from the shoreline area[, or within 1,000 feet seaward from the shoreline, or in water of 30 feet or less in depth in the territorial sea,] is prohibited with the following exceptions:

- (1) The taking from [a public beach] the shoreline area of such materials, not in excess of one gallon per person per day, for reasonable, personal, noncommercial use[;], provided that stricter provisions may be established by the counties;
- (2) Where the mining or taking of sand by the State or county is for the replenishment of sand [on public beaches at Hilo Bay, Waikiki, Ala Moana, and Kailua beaches;] in the shoreline area, provided that for the purpose of this paragraph an environmental [impact statement] assessment for the proposed project shall be [accepted] prepared pursuant to chapter 343, a finding shall be made by the proposing state or county agency that the proposed project is in the public interest and will not have any adverse significant social, economic, or environmental impact, and both a public informational meeting and public hearing shall be held by the proposing state or county agency in the affected community. The public hearing shall be preceded by public notice of the proposed project not less than [30] thirty days before the hearing and published on three separate days in a newspaper of general circulation in the State or county affected by the proposed project. The proposing state or county agency shall also notify in writing the owners or lessees of adjoining, overlapping, or affected property of the proposed project;
- (3) The clearing of sand from existing drainage pipes and canals and from the mouths of streams; or
- (4) The cleaning of shoreline area for State or county maintenance purposes, including the purposes under section 46-11.5 and section 46-12; provided that the sand removed shall be placed on adjacent [beaches] areas unless such placement would result in significant turbidity.”

SECTION 2. Chapter 171, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§171- Prohibitions.** The mining or taking of sand, dead coral or coral rubble, rocks, soil, or other marine deposits seaward from the shoreline is prohibited with the following exceptions:

- (1) The taking from seaward of the shoreline of such materials, not in excess of one gallon per person per day for reasonable, personal, noncommercial use;
- (2) For the replenishment or protection of public shoreline areas and adjacent public lands seaward of the shoreline area, or construction or maintenance of State approved lagoons, harbors, launching ramps or navigational channels with a permit authorized under section 183-41, provided that such permit shall not be issued for Hakipu'u sandbar, which is offshore of Molii fishpond, Oahu;
- (3) The clearing of such materials from existing drainage pipes and canals and from the mouths of streams; or
- (4) The cleaning of areas seaward of the shoreline for State or county maintenance purposes including the purposes under section 46-11.5 and section 46-12; provided that the materials removed shall be placed on adjacent areas unless such placement would result in significant turbidity."

SECTION 3. Section 7-3, Hawaii Revised Statutes, is repealed.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

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

(Approved June 15, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 376

H.B. NO. 3102

A Bill for an Act Relating to the Office of Hawaiian Affairs.

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

SECTION 1. The purpose of this Act is to amend Act 218, Session Laws of Hawaii 1987.

SECTION 2. Section 3, Act 218, Session Laws of Hawaii 1987, is amended to read as follows:

"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, as the case may be, from the sources of funding specified to the Office of Hawaiian Affairs for the fiscal biennium beginning July 1, 1987, and ending June 30, 1989. The total general fund expenditures and the number of permanent established positions 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.

P R O G R A M A P P R O P R I A T I O N S

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS		
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89
1. OHA100 - Office of the Administrator OPERATING			OHA	2.50 * 148,093 A		2.50 * [149,892 A]

ACT 376

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS		
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89
			<u>OHA</u>			<u>167,192 A</u>
				2.50 *		<u>2.50 *</u>
			<u>OHA</u>	188,838 B	[<u>191,252 B</u>
			<u>OHA</u>			<u>208,552 B</u>
2.	OHA101 - Administrative Services					
	OPERATING		<u>OHA</u>	3.00 *		<u>3.00 *</u>
			<u>OHA</u>	224,080 A	[<u>204,228 A</u>
			<u>OHA</u>			<u>210,428 A</u>
			<u>OHA</u>	3.00 *		<u>3.00 *</u>
			<u>OHA</u>	248,055 B	[<u>228,203 B</u>
			<u>OHA</u>			<u>234,403 B</u>
3.	OHA102 - Public Information					
	OPERATING		<u>OHA</u>	2.00 *		<u>2.00 *</u>
			<u>OHA</u>	113,852 A	[<u>110,244 A</u>
			<u>OHA</u>			<u>112,744 A</u>
			<u>OHA</u>	2.00 *		<u>2.00 *</u>
			<u>OHA</u>	128,841 B	[<u>125,233 B</u>
			<u>OHA</u>			<u>127,733 B</u>
4.	OHA103 - Human Resources					
	OPERATING		<u>OHA</u>	1.50 *		<u>1.50 *</u>
			<u>OHA</u>	74,287 A		<u>71,191 A</u>
			<u>OHA</u>	1.50 *		<u>1.50 *</u>
			<u>OHA</u>	85,873 B		<u>82,777 B</u>
5.	OHA104 - Planning and Development					
	OPERATING		<u>OHA</u>	2.00 *		<u>2.00 *</u>
			<u>OHA</u>	127,485 A	[<u>132,588 A</u>
			<u>OHA</u>			<u>133,416 A</u>
			<u>OHA</u>	2.00 *		<u>2.00 *</u>
			<u>OHA</u>	143,063 B	[<u>148,165 B</u>
			<u>OHA</u>			<u>148,993 B</u>
6.	OHA105 - Culture					
	OPERATING		<u>OHA</u>	1.50 *		<u>1.50 *</u>
			<u>OHA</u>	76,872 A		<u>41,637 A</u>
			<u>OHA</u>	1.50 *		<u>1.50 *</u>
			<u>OHA</u>	88,306 B		<u>53,071 B</u>
7.	OHA106 - Government Affairs					
	OPERATING		<u>OHA</u>	4.50 *		<u>4.50 *</u>
			<u>OHA</u>	145,057 A		<u>116,628 A</u>
			<u>OHA</u>	4.50 *		<u>4.50 *</u>
			<u>OHA</u>	173,787 B		<u>145,359 B</u>
8.	OHA107 - Land and Natural Resources					
	OPERATING		<u>OHA</u>	1.25 *	[<u>1.25 *</u>
			<u>OHA</u>			<u>1.50 *</u>
			<u>OHA</u>	199,108 A	[<u>197,353 A</u>
			<u>OHA</u>			<u>237,566 A</u>
			<u>OHA</u>	1.25 *	[<u>1.25 *</u>
			<u>OHA</u>			<u>1.50 *</u>
			<u>OHA</u>	208,231 B	[<u>206,476 B</u>
			<u>OHA</u>			<u>246,689 B</u>
9.	OHA108 - Economic Development					
	OPERATING OHA			1.50 *		<u>1.50 *</u>
				75,357 A		<u>87,861 A</u>
				1.50 *		<u>1.50 *</u>

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS		
				FISCAL M YEAR 1987-88	O F	FISCAL M YEAR 1988-89
			OHA	86,718	B	99,222 B
10. OHA109 - Education						
OPERATING			OHA	1.50 *		1.50 *
			<u>OHA</u>	80,378 A	[97,304 A]
			<u>OHA</u>	1.50 *		<u>101,304 A</u>
			OHA	91,812 B	[1.50 *
			<u>OHA</u>	108,738 B]		112,738 B]

SECTION 3. Act 218, Session Laws of Hawaii 1987, is amended as follows:

(1) By amending section 8 to read as follows:

“SECTION 8. Provided that of the funds appropriated for office of the administrator (OHA 100), the sum of [\$5,000] \$15,000 for fiscal year 1987-88 and [\$5,000] \$15,615 for fiscal year 1988-89 shall be used as a protocol fund.”

(2) By adding a new section to read as follows:

“SECTION 8A. Provided that of the funds appropriated for the office of the administrator (OHA 100), the sum of \$12,500 in general funds and \$12,500 in special funds for fiscal year 1988-89 shall be used to work with other agencies, including the department of Hawaiian home lands, Bishop estate, the department of health, the healthy start program, and other such programs in order to set up prevention programs.”

(3) By adding a new section to read as follows:

“SECTION 8B. Provided that of the funds appropriated for administrative services (OHA 101), the sum of \$6,200 in general funds and \$6,200 in special funds for fiscal year 1988-89 shall be used to develop and document operating procedures for the board of trustees.”

(4) By adding a new section to read as follows:

“SECTION 10A. Provided that of the funds appropriated for education (OHA 109), the sum of \$4,000 in general funds and \$4,000 in special funds for fiscal year 1988-89 shall be used for a statewide kupuna conference.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved June 15, 1988.)

A Bill for an Act Relating to a Business Permits Service Center.

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

SECTION 1. The legislature finds that the numerous regulatory requirements imposed by government on business and commercial activities in Hawaii can often be unduly burdensome and time-consuming, especially to small businesses. The legislature further finds that if this state intends to further stimulate the economy by encouraging growth in business and commercial activities, there is an urgent need to establish a means to assist persons engaging in or intending to engage in business or commercial activities in Hawaii in a coordinated and expeditious manner. The purpose of this Act is to establish a business permit service center which will provide interested persons with comprehensive information on permit requirements, assistance in coordinating the processing and review of permits, general information on other laws persons in business should be aware of (e.g., income tax, employer's taxes, and employment practices), and information on financial assistance programs available for businesses.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER BUSINESS PERMITS SERVICE CENTER

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

“Applicant” means any person acting on the person’s own behalf or who is authorized to act on behalf of any other person for the purpose of securing required permits to engage in business or commercial activities in the State.

“Center” means the business permits service center established in section

-2.

“Department” means the department of business and economic development.

“Director” means the director of business and economic development.

“Permit” means any license, certificate, registration, or any other form of authorization required by a federal, state, or county department or agency to engage in any business or commercial activity, excluding vocational and professional occupational licenses, certificates, or registration and environmental permits.

“Person” means any individual, proprietorship, partnership, association, cooperative, corporation, nonprofit organization, and any other organization required to obtain one or more permits for the conduct of its business or commercial activities.

“State agency” means any department, board, bureau, commission, division, office, council, or agency of the State, or a public benefit corporation or public authority having at least one member appointed by the governor.

§ -2 Business permits service center established; staff. (a) There is established within the department a business permits service center which shall provide information and services to coordinate, simplify, and expedite permit application processing for persons engaged in or intending to engage in business or commercial activities in the State. The center shall also serve as an information clearinghouse which makes available to any person general information as to state

and federal laws and rules and county ordinances and financial assistance programs related to business or commercial activities.

(b) The center shall be headed by a supervisor who shall be appointed by the director without regard to chapters 76 and 77 and shall serve at the director's pleasure. The director, without regard to chapters 76 and 77, may employ such other personnel as are required to carry out the functions of the center under this chapter.

§ -3 General functions; powers and duties. (a) The center shall have the following functions, powers, and duties:

- (1) To accept permit applications and associated fees on behalf of participating agencies in accordance with agreements reached with these agencies;
- (2) Provide comprehensive information on permits required for business or commercial activities in the State;
- (3) Facilitate contacts between the applicant and state agencies with permit functions;
- (4) Research, compile, and maintain a file of state and federal laws and rules and county ordinances applicable to the various business or commercial activities for which permits are required, including but not limited to, laws relating to employer requirements in such areas as state taxes, workers' compensation, and unemployment insurance;
- (5) Research, compile, and maintain a file of various financial assistance programs available for business and commercial activities in the State;
- (6) Encourage and facilitate the cooperation and participation of federal and county government agencies on permit coordination;
- (7) Promote and publicize the center's services to the public, and provide information on its services for inclusion in any public informational material for permits provided by a state agency;
- (8) Make recommendations to state agencies for eliminating, consolidating, simplifying, expediting, or otherwise improving permit procedures affecting business or commercial activities; and
- (9) Adopt rules, procedures, instructions, and forms as are necessary to carry out the functions, powers, and duties of the center.

(b) The center shall provide a toll free telephone business information service within the State and direct telephone lines to those agencies that have a direct relationship to permit functions.

§ -4 Cooperation from state agencies. The director may request and shall be entitled to receive from any state agency, such assistance, services, facilities, and data the director deems necessary to carry out the duties of the center. Each state agency with permit issuance functions covered under this chapter, shall cooperate with the center by designating a staff person to coordinate the agency's efforts in providing information to the center on its permit process, and to the extent possible, by providing a prompt response to requests for expediting the permit application or for information. In addition, the director shall be entitled to obtain personnel on a loaned basis from those agencies that issue permits to businesses including, but not limited to, the department of commerce and consumer affairs, the department of taxation, and the department of labor and industrial relations. The director may assign such loaned personnel to the center.

§ -5 Comprehensive permit information file. Each state agency required to review, approve, or grant permits for business or commercial activities shall report to the center on a form prescribed by the center, each and every type of

review, approval, and permit administered by the state agency. Application forms, applicable agency rules, and the estimated time period necessary for permit application consideration based on experience and statutory or administrative rule requirements shall accompany each state agency report. Subsequent to the filing of the report, the state agency shall submit reports to the center on any new permit requirement or modifications to existing permit requirements together with applicable forms, rules, and other information required to be filed in the initial report. Upon receipt of those reports, the center shall establish and maintain a comprehensive information file which provides ready access to the most current information as provided by the state agencies.

§ -6 Immunity from liability. The opinions offered and the services rendered by the center under this chapter shall be considered facilitative in nature and the center shall not be liable for any consequences resulting from an applicant's failure to obtain a required permit, and any information provided by the center or any omission of information by the center shall not relieve any applicant from, or constitute a waiver of, the obligation to secure a required permit.

§ -7 Compilation of statistical data; annual report. The center shall obtain and keep, on an annual basis, appropriate statistical data regarding the number of permits issued by state agencies, the amount of time involved in the processing of permits, the cost of processing permits, the types of activities for which permits have been issued, a geographic distribution of the permits issued, and other pertinent data the director deems necessary for analysis for future planning purposes. The department shall submit an annual report to the governor and the legislature which shall include a description of the operations of the center, summaries and analyses of statistical data compiled, and recommendations for any administrative or statutory changes required to further the purposes of this chapter."

SECTION 3. Upon completion of its first year of operation, the department shall conduct a study of the feasibility of utilizing a master or multiple permit application form or other means of consolidation of the permit process including the process for obtaining environmental permits. The study shall include, but not be limited to, the consideration of:

- (1) The experience of the center during its first year as to the number and types of applicants requiring multiple permits;
- (2) The experience of other states that have instituted a master or multiple permit application form;
- (3) The cost and workforce requirements for developing and implementing a master or multiple permit application form;
- (4) The extent to which overlapping or duplicate functions exist in the permit process including environmental permits;
- (5) The cost-effectiveness of implementation in Hawaii; and
- (6) The legislature's intent that any consolidation of permit applications not mitigate the consumer protection aspects of any permit process.

The department is authorized to form a task force for the purposes of this study and authorized to include in that task force representatives from the various departments of the state, other participating agencies and persons from the private sector thought by the department to be most affected by this process.

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 1988-1989, to carry out the purposes of this Act, including the hiring of

necessary staff. The sum appropriated shall be expended by the department of business and economic development.

SECTION 5. This Act shall take effect upon its approval; provided that section 4 shall take effect on July 1, 1988.

(Approved June 15, 1988.)

ACT 378

S.B. NO. 2750

A Bill for an Act Relating to Geothermal Mining Leases.

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

SECTION 1. The purpose of this Act is to grant a surface owner or the owner's assignee the first right of refusal in obtaining a geothermal mining lease on reserved lands within a geothermal resource subzone.

SECTION 2. Section 182-5, Hawaii Revised Statutes, is amended to read as follows:

"§182-5 Mining leases on reserved lands. If any mineral is discovered or known to exist on reserved lands, any interested person may notify the board of land and natural resources of the person's desire to apply for a mining lease. The notice shall be accompanied by a fee of \$100 together with a description of the land desired to be leased and the minerals involved and such information and maps as the board may by regulation prescribe. The board may grant a mining lease on reserved lands in accordance with section 182-4, or the board may, by the vote of two-thirds of its members to which the board is entitled, without public auction, grant a mining lease on reserved lands to the occupier thereof. Such a mining lease may be granted to a person other than the occupier if the occupier has assigned the occupier's rights to apply for a mining lease to another person, in which case only such an assignee may be granted a mining lease. Any provisions to the contrary notwithstanding, if the board decides that it is appropriate to grant a geothermal mining lease on the reserved lands, the surface owner or the owner's assignee shall have the first right of refusal for a mining lease; however, the granting of a geothermal mining lease does not create the presumption that a geothermal resource subzone will be designated, nor shall geothermal development activities occur on land within the geothermal mining lease until the area is designated a geothermal resource subzone. If the occupier or the occupier's assignee of the right to obtain a mining lease should fail to apply for a mining lease within six months from the date of notice from the board of a finding by the board that it is in the public interest that the minerals on the reserved lands be mined, a mining lease shall be granted under section 182-4; provided that bidders at the public auction shall bid on an amount to be paid to the State for a mining lease granting to the lessee the right to exploit minerals reserved to the State."

SECTION 3. New statutory material is underscored.

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

(Approved June 15, 1988.)

ACT 379

S.B. NO. 2840

A Bill for an Act Relating to Ocean Waters and Navigable Streams.

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

SECTION 1. Section 266-16, Hawaii Revised Statutes, is amended to read as follows:

"§266-16 Limitation of private use of ocean waters and navigable streams.

(a) No person shall erect or place any structure or similar object, or sink any type of watercraft or other sizeable object, or abandon any type of watercraft or other sizeable object, either sunk or unsunk, on or within the ocean waters or navigable streams of the State without a written permit from the department of transportation. The department may require any person violating this section to remove any structure, similar object, watercraft, or other sizeable object, within the meaning of this section, on or within the ocean waters or navigable streams of the State. If any person fails to remove same within a time limit set by the department, it may effect such removal and charge the person with the cost thereof. The department may enforce compliance with this section by the use of any appropriate remedy.

(b) No person shall anchor, moor, or otherwise place any vessel, houseboat, or other contrivance on or within the ocean waters or navigable streams of the State outside any state harbor without a permit from the department. This section shall not apply to vessels owned by the United States, vessels engaged in interstate or foreign commerce, or pleasure craft or fishing vessels temporarily anchored for a period of less than seventy-two hours. The department may require any person violating this section to remove any vessel, houseboat, or other contrivance from the ocean waters or navigable streams of the State outside a state harbor. If any person fails to remove a vessel, houseboat or other contrivance within the time limit set by the department, the department may effect such removal and charge the person with the cost thereof. The department may enforce compliance with this section by the use of any appropriate remedy, including injunction or other equitable or legal process in the courts of the State. For the purpose of this section:

"Houseboat" means any vessel which is fitted for use as a permanent or temporary place of habitation, and is either stationary or to be moved by oars, sweeps, or towing.

"Vessel" means every description of watercraft used or capable of being used as a means of transportation on water, including but not limited to power boats, ships, tugs, sailing vessels, barges, scows, lighters, ferry boats, pleasure craft, floating equipment, floating gear, dry docks and any and all other watercraft.

"Contrivance" means any man-made object or artificial arrangement not used or intended to be used for transportation which may be floated upon or suspended within the water.

(c) The director may, in order to promote the health, safety, and welfare of the public on or within the ocean waters and navigable streams of the State outside any state harbor, adopt rules regulating the anchoring and mooring of vessels, houseboats, and other contrivances including:

- (1) the designation of offshore mooring areas;
- (2) the licensing and registration of vessels, houseboats, and other contrivances; and the issuance of permits for offshore anchoring and mooring of vessels, houseboats, and other contrivances;
- (3) the living aboard on such vessels, houseboats, or other contrivances while they are anchored or moored within ocean waters or navigable streams of the State; and

(4) any other matter relating to the health, safety, and welfare of the general public.

The rules shall provide for consideration of environmental impacts on the State's aquatic resources in the issuance of any permits for offshore mooring.

(d) The permittee shall pay fees to the department for the offshore mooring permit issued by the department. The fees shall be based on, but not limited to, the use of the vessel, its effect on the waters and aquatic resources of the State, and the administrative expenses incurred by the department and other state agencies in administering offshore mooring. All revenues collected under this section shall be deposited in the boating special fund."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect on January 1, 1989.

(Approved June 15, 1988.)

ACT 380

S.B. NO. 3018

A Bill for an Act Relating to School Personnel.

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

SECTION 1. Section 297-31.2, Hawaii Revised Statutes, is amended to read as follows:

“§297-31.2 Classification, educational officers. The board of education shall classify all educational officer positions of the department of education and adopt a classification/compensation plan for these educational officer positions; provided that [such] the classification/compensation plan shall include a classification/compensation appeals procedure.”

SECTION 2. Chapter 297, Hawaii Revised Statutes, is amended by adding a new section to be designated as 297-31.3 and to read as follows:

“§297-31.3 Classification/compensation appeals board; adjustments to classification/compensation plan. (a) There shall be established a classification/compensation appeals board within the department of education for administrative purposes. The board shall be composed of three members with one member appointed by the board of education and one member appointed by the exclusive bargaining unit representing educational officers, and these two appointed members shall appoint a third member who shall serve as chairperson; provided that no member shall be an employee of the department of education or member of the board of education or an employee of the organization representing educational officers. The board shall sit as an appellate body on matters of classification/compensation. All decisions of the board shall be by majority vote and be binding on both parties.

(b) The appeals board shall meet biennially every even-numbered year to receive appeals from affected persons and parties relating to the classification/compensation plan. All petitions for appeal shall be filed with the appeals board within twenty days from the date set by the appeals board for receipt of these appeals.

(c) The appeals board shall function independently of the board of education and the department of education, but may procure office facilities and clerical

ACT 381

assistance from them. Neither the appeals board nor any of its members or staff shall consult with any member of the board of education or department of education except on notice and opportunity for the appealing employee or the employee's representative to participate. The appeals board shall adopt policies and standards relative to classification/compensation. The appeals board may adopt rules pursuant to chapter 91 for the conduct of appeal hearings.

(d) The appeals board shall make whatever adjustments that are necessary to the affected classes where the appeals have been filed in the classification/compensation plan.

The appeals board shall hear appeals and complete the final adjustment to the classification/compensation plan by December 7, 1988 and by the first Wednesday of December on subsequent even-numbered years. Following the final adjustment to the classification/compensation plan, the superintendent of education shall submit to the state legislature, through the office of the governor, a report setting forth the classification/compensation plan and the cost thereof for its information and approval. The approved classification/compensation plan shall be effective as of July 1 of each odd-numbered year.

(e) Notwithstanding any other laws to the contrary, each member of the appeals board shall receive \$50 per day for each day on which work is done by them in connection with authorized activities of the board. The cost thereof shall be met by state legislative appropriations for the appeals board."

SECTION 3. Chapter 297, Hawaii Revised Statutes, is amended by adding a new section to be designated as 297-39.1 and to read as follows:

"§297-39.1 Educational officer with special assignments. Educational officers at the state, district, and school levels with special assignments, where their responsibilities are greater than those falling within the scope of their ordinary duties and responsibilities, shall be provided additional benefits by the department."

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$5,000, or so much thereof as may be necessary for fiscal year 1988-1989, for the funding of the classification/compensation appeals board. The sum appropriated shall be expended by the department of education for the purposes of this Act.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 6. This Act shall take effect on July 1, 1988.

(Approved June 15, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 381

S.B. NO. 2649

A Bill for an Act Relating to Marine Life Conservation Areas.

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

SECTION 1. Section 190,¹ Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§190- Mooring in marine conservation districts. The department of land and natural resources shall, pursuant to chapter 91, adopt rules for the regulation of mooring in each marine conservation district established under this chapter."

SECTION 2. New statutory material is underscored.²

SECTION 3. This Act shall take effect January 1, 1989.

(Approved June 15, 1988.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

ACT 382

H.B. NO. 2906

A Bill for an Act Relating to Criminal Law.

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

SECTION 1. Title 38, Hawaii Revised Statutes, is amended by adding a new chapter to be appropriately designated and to read as follows:

**"CHAPTER
COURT ADVISEMENT OF ALIENS ENTERING GUILTY
PLEA**

§ -1 Legislative findings and intent. The legislature finds that in many instances involving an individual who is not a citizen of the United States charged with an offense punishable as a crime under state law, a plea of guilty or nolo contendere is entered without the defendant knowing that a conviction of such offense is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States. Therefore, it is the intent of the legislature in enacting this section to promote fairness to such accused individuals by requiring in such cases that acceptance of a guilty plea or plea of nolo contendere be preceded by an appropriate warning of the special consequences for such a defendant which may result from the plea. It is also the intent of the legislature that the court in such cases shall grant the defendant a reasonable amount of time to negotiate with the prosecuting agency in the event the defendant or the defendant's counsel was unaware of the possibility of deportation, exclusion from admission to the United States, or denial of naturalization as a result of conviction. It is further the intent of the legislature that at the time of the plea no defendant shall be required to disclose the defendant's legal status to the court.

§ -2 Court advisement concerning alien status required. Prior to acceptance of a plea of guilty or nolo contendere to any offense punishable as a crime under state law, except offenses designated as infractions under state law, the court shall administer the following advisement on the record to the defendant:

If you are not a citizen of the United States, you are hereby advised that conviction of the offense for which you have been charged may have the consequences of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

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Upon request, the court shall allow the defendant additional time to consider the appropriateness of the plea in light of the advisement as described in this section.

§ -3 Failure to advise; vacation of judgment. If the court fails to advise the defendant as required by section -2 and the defendant shows that conviction of the offense to which the defendant pleaded guilty or nolo contendere may have the consequences for the defendant of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States, on defendant's motion, the court shall vacate the judgment and permit the defendant to withdraw the plea of guilty or nolo contendere, and enter a plea of not guilty. Absent a record that the court provided the advisement required by this section, the defendant shall be presumed not to have received the required advisement."

SECTION 2. The provisions of this Act shall apply only to pleas accepted after the effective date of this Act. Nothing in this Act shall require the vacation of judgment and withdrawal of the plea or constitute grounds for finding a prior conviction invalid with respect to pleas accepted prior to the effective date of this Act. Nothing in this Act, however, shall be deemed to inhibit a court, in the sound exercise of its discretion, from vacating a judgment and permitting a defendant to withdraw a plea.

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

(Approved June 15, 1988.)

ACT 383

S.B. NO. 2038

A Bill for an Act Relating to Liquor.

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

SECTION 1. Chapter 281, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

"§281- Liquor commission attorney. The liquor commission may hire county attorneys to assist it in carrying out its functions under this chapter. The assistance may include providing legal advice and prosecuting and defending legal claims under this chapter or arising in connection with this chapter."

SECTION 2. Section 281-11, Hawaii Revised Statutes, is amended to read as follows:

"§281-11 County liquor commissions; qualifications; compensation. (a) A liquor commission, consisting of five members, no more than three of whom shall belong to the same political party at the time of appointment, is created for each of the counties. The elected executive head of each county shall nominate, and by and with the advice and consent of the legislative body of the county, shall appoint the members of the commissions. The elected executive head of each county [may], by and with the advice and consent of the legislative body of the county, may remove from office any of such members. The commission shall designate one of its members as chairman. Each member shall be a citizen of the United States and shall have resided in the county for which appointed for at least three years immediately preceding the date of the member's appointment.

[The members of the commission shall be appointed, one for a term to expire on December 31, 1965, one for a term to expire on December 31, 1966, one for

a term to expire on December 31, 1967, one for a term to expire on December 31, 1968, and one for a term to expire on December 31, 1969.]

(b) Upon the expiration of the term of each commissioner, the commissioner's successor shall be appointed for a term to expire five years from the date of the expiration of the preceding term.

The tenure in office of every commissioner shall be for the terms provided and until their successors are duly appointed and qualified.

Any vacancy shall be filled by appointment for the remainder of the unexpired term. No person shall be a member of any commission who is or becomes engaged, or is directly or indirectly interested in any business for the manufacture or sale of liquor or who advocates or is or becomes a member of, or is identified or connected with, any organization or association which advocates prohibition, or who is an elected officer of the state or county government or who presents oneself as a candidate for election to any public office during the term of the person's appointment hereunder. This provision shall be enforced by the elected executive head of the county by the removal of the disqualified member whenever such disqualifications shall appear.

[The members of the commission shall be allowed their reasonable expenses, for travel and other costs necessarily incidental to the discharge of their duties and shall each receive and be paid compensation for the member's services at the rate of \$10 per day for each day's actual attendance upon their duties; provided that they shall not receive more than \$100 each per month on account of such compensation.

In any county having a population of more than one hundred thousand, the chairman and each member of that county's liquor commission shall be compensated for their services at the rate of \$35 per day for the chairman and \$25 per day for each member, for their reasonable expenses incidental to the discharge of their duties; provided that the chairman shall not receive more than \$350 per month and each member shall not receive more than \$250 each per month on account of such compensation.]

(c) The amount of compensation and reasonable expenses for travel and other costs necessarily incident to the discharge of the members' duties shall be established by each county.

(d) Each member of the commission, before entering upon the duties of the member's office, shall take and subscribe to an oath that the member will faithfully perform such duties according to law, which written oath shall be filed with the elected executive head of each county."

SECTION 3. Section 281-31, Hawaii Revised Statutes, is amended by amending subsection (k) to read as follows:

"(k) Class 11. Cabaret license. A cabaret license shall be general only (but excluding alcohol) and shall authorize the sale of liquors for consumption on the premises. This license shall be issued only for premises where food is served, facilities for dancing by the patrons are provided, including a dance floor and an orchestra of not less than three members, or professional entertainment is provided for the patrons. Notwithstanding any rule or regulation 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."

SECTION 4. Section 281-32, Hawaii Revised Statutes, is amended to read as follows:

"**§281-32 Licenses, temporary.** A temporary license of any class and kind specified in section 281-31 may be granted under the following conditions.

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- (1) The premises shall have been operated under a license of the same class and kind issued by the liquor commission at least one year immediately prior to the date of filing of the application for temporary license.
- (2) The license of the same class and kind then in effect for the premises shall be surrendered in such manner and at such time as the commission shall direct.
- (3) The applicant for temporary license shall have filed with the commission an application for [the transfer to the applicant of the] a license of the same class and kind then in effect for the premises.
- (4) The application for temporary license shall be accompanied by a license fee in such amount as may be prescribed by the commission. If the application is denied or withdrawn, the fee which accompanied the application shall be refunded in full.
- (5) A temporary license shall be for a period of not in excess of [sixty one hundred and twenty days]. The license may be renewed at the discretion of the commission for not more than one additional sixty day period upon payment of such additional fee as may be prescribed by the commission and upon compliance with all conditions required in this section and section 281-31.
- (6) A temporary license shall authorize the licensee to purchase liquor only by payment in currency or certified check for the liquor before or at the time of delivery of the liquor to the licensee.
- (7) Sections 281-52 and 281-54 and sections 281-56 to 281-61 shall not apply to any application for temporary license."

SECTION 5. Section 281-54, Hawaii Revised Statutes, is amended to read as follows:

"§281-54 Filing fees with application. A filing fee in such amount as shall be established by the respective liquor commission shall be paid with any application for an initial issuance of a license or for a transfer of a license[, provided that a filing fee is not required with an application for a license or transfer of a license of the following classes and kinds:

- (1) Manufacturer of wine from grapes or other fruits grown in the State;
- (2) Manufacturer of alcohol;
- (3) Retail alcohol;
- (4) Vessel;
- (5) Additional vessel;
- (6) Special].

Where a license is granted, the filing fee deposited with the application shall become part payment of the fee required for such license. Where an application is denied or withdrawn, the filing fee paid shall become a realization of the county."

SECTION 6. Section 281-78, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- "(b) At no time under any circumstances shall any licensee:
- (1) Knowingly permit any person under the influence of liquor or disorderly person to be or remain in or on the licensed premises;
 - (2) Fail immediately to prevent or suppress any violent, quarrelsome, disorderly, lewd, immoral, or unlawful conduct of any person on the premises;

- (3) Sell any draught beer unless upon the faucet, spigot, or outlet wherfrom the beer is drawn there is attached a clear and legible notice, placard, or marker which shall in the English language indicate and declare the name or brand adopted by the manufacturer of the draught beer, so situated as to be clearly legible for a distance of at least ten feet from the spigot, faucet, or outlet, to a purchaser with normal vision[.];
- (4) Receive from a person, as payment or as a consideration for liquor, any personal or household goods, including clothing and food, or any implements of trade. Any person violating this paragraph shall be guilty of a misdemeanor and upon conviction shall be punished as provided for in section 281-102."

SECTION 7. Section 281-81, Hawaii Revised Statutes, is repealed.

SECTION 8. Section 281-103, Hawaii Revised Statutes, is repealed.

SECTION 9. Section 281-112, Hawaii Revised Statutes, is repealed.

SECTION 10. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 11. This Act shall take effect upon its approval.

(Approved June 15, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 384

H.B. NO. 2151

A Bill for an Act Relating to a Revolving Loan Program for Business Opportunities on Molokai.

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

SECTION 1. The legislature finds that the economy of the island of Molokai is at a critical juncture. The residents have long relied on the pineapple industry as the major provider of jobs; however, since the closure of Dole Company's operations in 1976 and the reduction of Del Monte's operations in 1983, hundreds of Molokai residents have been jobless and the island's unemployment rate (at over fourteen per cent) is the highest in the State. The legislature further finds that the revival of Molokai's economy is best supported by the development and growth of small businesses, particularly those appropriate for cottage industries, community-based rural development, and subsistence economies that produce items unique to the local community, and that it is in the public interest to provide financial support to facilitate such development and growth on Molokai.

The purpose of this Act is to establish a revolving loan program. The revolving loan program will stimulate business development and growth on the island of Molokai and serve as a pilot project for programs in other rural areas.

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

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year 1988-1989, for the establishment of a revolving loan program to provide financing opportunities for small business ventures on Molokai. The sum appropriated shall be expended by the department of business and economic development for the purposes of this Act.

SECTION 3. (a) The department of business and economic development shall establish a temporary revolving loan program to provide financing opportunities for small business ventures on Molokai. To carry out the loan program, the department shall establish a revolving fund from which moneys shall be loaned in accordance with this Act and into which all payments, interest, and fees collected by the department on such loans shall be deposited. For the purposes of this section, "small business" means those businesses that have no more than ten employees.

(b) The program shall provide loans to qualified applicants with the following terms and conditions:

- (1) No loan shall be granted unless financial assistance is not otherwise available to the applicant;
- (2) The amount of a loan or loans to any one applicant at any one time shall not exceed \$150,000;
- (3) The maximum term of a loan shall not exceed five years;
- (4) Each loan shall bear a simple interest rate of not less than four and not more than ten per cent a year, depending on the nature of the loan; and
- (5) The commencement date for the repayment of the first installment on the principal and interest of each loan may be deferred by the director of business and economic development for a period not to exceed two years.

(c) The department, with the cooperation of the mayor of the county of Maui and the mayor's Molokai task force, shall adopt rules pursuant to chapter 91 to carry out the purposes of this Act including the following:

- (1) Prescribing the qualifications for eligibility of loan applicants;
- (2) Establishing preferences and priorities in determining eligibility for loans and loan repayments;
- (3) Determining the necessity for the extent of security required in any loan;
- (4) Prescribing the forms of financial participation the department may engage in as a result of making a loan under this Act, including but not limited to warrants, options, or royalties on sales or earnings; and
- (5) Prescribing appropriate management counseling and monitoring of business activities.

(d) Eligibility preferences and priorities shall include, but not be limited to, activities that are appropriate for cottage industries, community-based rural development, and subsistence economies, such as export-oriented arts, crafts, and fashion operations.

(e) The mayor of the county of Maui and the mayor's Molokai task force shall review all business plans, except financial statements or personal information, to assess whether the proposed business concept is likely to be acceptable to the community. They shall make recommendations to the department of business and economic development regarding acceptability of the proposed business concept, and the department of business and economic development then shall have final authority to approve or disapprove the loan application.

SECTION 4. The department of business and economic development may expend \$40,000 from the revolving fund in each year the revolving loan program

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is in operation for the purpose of hiring a professional staff person for, and to cover the operating costs of, the program.

SECTION 5. The department shall annually submit a written report to the governor, the legislature, and the mayor of the county of Maui on the progress of the revolving loan program for each year the revolving loan program is in operation.

SECTION 6. This Act shall take effect on July 1, 1988, and shall be repealed on June 30, 1993.

(Approved June 15, 1988.)

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H.B. NO. 2348

A Bill for an Act Relating to Psychologists.

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

SECTION 1. Chapter 465, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§465- Licensure; education commenced prior to 1985. Notwithstanding section 465-7(2), an applicant for licensure may be held to satisfy the requirements of that section if the following conditions are met:

- (1) The doctoral degree was conferred by a program which the applicant commenced prior to 1985 and the applicant filed an application with the board by December 31, 1987; and
- (2) The doctoral degree was conferred by a state approved training program.”

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval; provided that on July 1, 1990 this Act shall be repealed.

(Approved June 15, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

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H.B. NO. 3521

A Bill for an Act Relating to Administration of Taxes.

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

SECTION 1. Section 231-39, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) There shall be added to and become a part of the tax imposed by such tax or revenue law, and collected as such:

- (1) Failure to file tax return. In case of failure to file any tax return required to be filed on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that the failure is due to reasonable cause and not due to neglect, there shall be added to the amount required to be shown as tax on the return five per cent of the amount of the tax if the failure is for not more than one month, with an additional five per cent for each additional month or fraction thereof during which the failure continues, not exceeding twenty-five per cent in the aggregate. For purposes of this paragraph, the amount of tax required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed upon the return. This paragraph shall not apply to any failure to file a declaration of estimated tax required by section 235-97.
- (2) Failure to pay tax.
 - (A) If any part of any underpayment is due to negligence or intentional disregard of rules [and regulations] (but without intent to defraud), there shall be added to the tax an amount up to [ten] twenty-five per cent of the underpayment as determined by the director.
 - (B) If any part of any underpayment of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount up to fifty per cent of the underpayment as determined by the director.
 - (C) If any penalty is assessed under subparagraph (B) (relating to fraud) for an underpayment of tax which is required to be shown on a return, no penalty under paragraph (1) (relating to failure to file the return) shall be assessed with respect to the same underpayment.
- (3) Failure to pay tax after filing timely returns. If a return is filed on or before the date prescribed therefor and the amount shown as tax on the return is not completely paid within [90] sixty days of the prescribed filing date, there shall be added to the unpaid tax an amount up to [ten] twenty per cent as determined by the director.
- (4) Interest on underpayment or nonpayment of tax.
 - (A) If any amount of tax is not paid on or before the last date prescribed for payment, interest on such amount at the rate of two-thirds of one per cent a month or fraction of a calendar month shall be paid for the period beginning with the first month following the date prescribed for payment, or if the prescribed date for payment is the end of a calendar month, and section 231-21 is applicable, beginning with the month on which the due date as so extended is a part, to the date paid.
 - (B) If the amount of any tax is reduced by reason of a carryback of a net operating loss allowed under chapter 235, such reduction in tax shall not affect the computation of interest under this paragraph for the period ending with the last day of the taxable year in which the net operating loss arises.
 - (C) Interest prescribed under this paragraph on any tax shall be paid upon notice and demand, and shall be assessed, collected, and paid in the same manner as taxes.

- (D) No interest under this paragraph shall be imposed on interest provided by this paragraph.
- (E) If any portion of a tax is satisfied by credit of any overpayment, then no interest shall be imposed under this paragraph on the portion of the tax so satisfied for any period during which, if the credit had not been made, interest would have been allowable with respect to the overpayment.
- (F) Interest prescribed under this paragraph on any tax may be assessed and collected at any time during the period within which the tax to which the interest relates may be collected.
- (G) This paragraph shall not apply to any failure to pay estimated tax required by section 235-97."

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

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

(Approved June 15, 1988.)

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S.B. NO. 2195

A Bill for an Act Relating to a Revolving Loan Program for Business Opportunities on Molokai.

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

SECTION 1. The legislature finds that the economy of the island of Molokai is at a critical juncture. The residents have long relied on the pineapple industry as the major provider of jobs; however, since the closure of Dole Company's operations in 1976 and the reduction of Del Monte's operations in 1983, hundreds of Molokai residents have been jobless and the island's unemployment rate at over fourteen per cent is the highest in the State. The legislature further finds that the revival of Molokai's economy is contingent on the development and growth of small businesses, especially in diversified agriculture, and that it is in the public interest to provide financial support to facilitate such development and growth on Molokai. The purpose of this Act is to establish a revolving loan program to stimulate business development and growth in diversified agriculture on the island of Molokai.

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 1988-1989, for the establishment of a revolving loan program to provide financing opportunities for small business ventures in diversified agriculture on Molokai. The sum appropriated shall be expended by the county of Maui for the purposes of this Act.

SECTION 3. (a) The county of Maui shall establish a temporary revolving loan program to provide financing opportunities for small business ventures in diversified agriculture on Molokai. To carry out the loan program, the county shall establish a revolving fund from which moneys shall be loaned in accordance with this Act and into which all payments, interest, and fees collected by the county on such loans shall be deposited.

(b) The program shall provide loans to qualified applicants with the following terms and conditions:

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- (1) No loan shall be granted unless financial assistance is not otherwise available to the applicant;
- (2) The amount of a loan or loans to any one applicant at any one time shall not exceed \$150,000;
- (3) The maximum term of a loan shall not exceed twenty years;
- (4) Each loan shall bear interest conforming to the department of agriculture's "Agricultural Loans" rate, policies, and practices; and
- (5) The commencement date for the repayment of the first installment on the principal and interest of each loan may be deferred by the mayor of the county of Maui for a period not to exceed two years.

(c) The program shall be administered by the county of Maui. The county of Maui, in consultation with the department of agriculture, shall adopt rules to carry out the program's purpose. The loan applications shall be reviewed initially by the credit review committee of the Molokai task force. The committee shall make recommendations regarding the suitability of the proposed business concepts. The county of Maui shall make the final decision to approve or disapprove the application.

SECTION 4. The county of Maui may expend up to \$40,000 from the revolving fund in each year the revolving loan program is in operation for the purpose of hiring a professional staff person for, and to cover the operating costs of, the program.

SECTION 5. The county shall annually submit a written report as of December 31, to the governor and the legislature, on the progress of the revolving loan program for each year the revolving loan program is in operation.

SECTION 6. This Act shall take effect on July 1, 1988.

(Approved June 15, 1988.)

ACT 388

S.B. NO. 2253

A Bill for an Act Relating to the Sale of Gasoline.

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

SECTION 1. Chapter 486, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§486- Price posting by gallon required. The director shall adopt rules to require any retail dispenser of gasoline, whose variator price is set in liters, for every grade of gasoline sold, to post on top or on the face panel of each gasoline pump and on any other pricing advertisement in conspicuous numbers comparable in size to any other posted price, the price per United States gallon for the gasoline dispensed. If the variator price is set in gallons, no liter price posting or advertisement shall be required. Nothing in this section shall be deemed to require that gasoline be sold by the gallon.

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect one hundred eighty days after its approval.

(Approved June 15, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

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S.B. NO. 2318

A Bill for an Act Relating to Payment for Goods and Services.

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

SECTION 1. Section 103-10, Hawaii Revised Statutes, is amended to read as follows:

“§103-10 Payment for goods and services. Any person who renders a proper statement for goods delivered or services performed, pursuant to contract, to any agency of the State or any county, shall be paid no later than [forty-five] thirty calendar days following receipt of the statement or satisfactory delivery of the goods or performance of the services. In the event circumstances prevent the paying agency from complying with this section, the person shall be entitled to interest from the paying agency on the principal amount remaining unpaid at the effective rate of twelve per cent simple interest per year commencing on the [forty-fifth] thirtieth day following receipt of the statement or satisfactory delivery of the goods or performance of the services, whichever is later, and ending on the date of the warrant. This section shall not apply in those cases where delay in payment is due to: a bona fide dispute between the State or any county and the contractor concerning the services or goods contracted for; a labor dispute; a power or mechanical failure; fire; acts of God; or any similar circumstances beyond the control of the State or any county. Where the time of payment is contingent upon the receipt of federal funds, or federal approval, the solicitation of bids for contracts shall clearly state that payment is contingent upon such conditions. If the solicitation for bids contains the warning and a contract is awarded in response to the solicitation then interest will not begin to accrue upon any unpaid voucher until the [forty-fifth] thirtieth day following receipt by the State of the contractor's statement or the thirtieth day following receipt of the federal funds or approval, whichever occurs later, and will end as of the date of the warrant. All payments for goods delivered or services performed to a state agency which are less than \$100 shall be made from the petty cash funds of the agency; provided that the comptroller may establish a higher threshold for petty cash payments and may grant exceptions to this requirement.”

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

SECTION 3. This Act shall take effect on January 1, 1990.

(Approved June 15, 1988.)

ACT 390

H.B. NO. 2081

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 1988.

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SECTION 2. This Act amends Act 216, Session Laws of Hawaii 1987, and other acts making appropriations and authorizations.

SECTION 3. Part I, Act 216, Session Laws of Hawaii 1987, is amended:

(1) By amending Section 2(b) to read:

“(b) “Expending agency” means the executive department, independent commission, bureau, office, board, or other establishment of the state government (other than the legislature, Office of Hawaiian Affairs, and judiciary), the political subdivision of the State, or any quasi-public institution supported in whole or in part by state funds, which is authorized to expend specified appropriations made by this Act. Abbreviations, where used to denote the expending agency, shall mean the following:

AGR	Department of Agriculture
AGS	Department of Accounting and General Services
ATG	Department of the Attorney General
BED	Department of Business and Economic Development
BUF	Department of Budget and Finance
CCA	Department of Commerce and Consumer Affairs
DEF	Department of Defense
DOC	Department of Corrections
EDN	Department of Education
GOV	Office of the Governor
HHL	Department of Hawaiian Home Lands
HTH	Department of Health
LBR	Department of Labor and Industrial Relations
LNR	Department of Land and Natural Resources
LTG	Office of the Lieutenant Governor
PER	Department of Personnel Services
SOC	Department of Human Services
SUB	Subsidies
TRN	Department of Transportation
TAX	Department of Taxation
UOH	University of Hawaii
COH	County of Hawaii
CCH	City and County of Honolulu
COM	County of Maui
COK	County of Kauai”

(2) By adding a new section to read:

“**SECTION 2A.** Any references to the department of human services (SOC) contained herein shall apply to programs described pursuant to Act 339, Session Laws of Hawaii 1987.”

(3) By adding a new section to read:

“**SECTION 2B.** Any references to the department of corrections (DOC) contained herein shall apply to programs described pursuant to Act 338, Session Laws of Hawaii 1987.”

(4) By adding a new section to read:

“**SECTION 2C.** Any references to the department of business and economic development (BED) contained herein shall apply to programs described pursuant to Act 336, Session Laws of Hawaii 1987.”

(5) By adding a new section to read:

“SECTION 2D. The abbreviation DPED where used to refer to the department of planning and economic development in Act 216, Session Laws of Hawaii 1987, is changed to BED.”

(6) By adding a new section to read:

“SECTION 2E. The Program ID as used in Act 216, Session Laws of Hawaii 1987, if not specifically amended in this Act, is changed:

<u>From</u>		<u>To</u>	
AGS	263	Communication	BUF
PED	102	Commerce and Industry	BED
PED	104	Hawaii Community Development Authority	BED
PED	107	Foreign Trade Zone Services	BED
PED	113	State Tourism Office	BED
PED	120	Energy Development and Management	BED
PED	130	Econ Planning & Research for Econ Devpmt	BED
PED	142	General Support for Economic Development	BED
SOC	223	Broadened Homesite Ownership	BED
SOC	225	Private Housing Development & Ownership	BED
SOC	227	Housing Finance Program	BED
SOC	394	Intake Service Centers	DOC
SOC	401	Juvenile Correctional Facilities	DOC
SOC	402	High Security Facility	DOC
SOC	403	Kulani Correctional Facility	DOC
SOC	404	Waiawa Correctional Facility	DOC
SOC	405	Hawaii Community Correctional Center	DOC
SOC	406	Maui Community Correctional Center	DOC
SOC	407	Oahu Community Correctional Center	DOC
SOC	408	Kauai Community Correctional Center	DOC
SOC	409	Women's Community Correctional Center	DOC
SOC	411	Adult Parole Determination	DOC
SOC	413	Adult Parole Supervision and Counseling	DOC
SOC	414	Criminal Injuries Compensation	DOC
SOC	493	General Administration-Confinement	DOC
SUB	806	Veterans Cemeteries and Burial Payments	SOC
			806
			Veterans Cemeteries and Burial Payments

unless the director of the department of budget and finance or the governor determines otherwise.”

(7) By adding a new section to read:

“SECTION 2F. The Program ID as used in Act 216, Session Laws of Hawaii 1987, if not specifically amended by this Act, is changed from PED 103, statewide plan and coordination, to GOV 103, statewide plan and coordination, or BED 103, land use and coastal management, wherever applicable unless the director of the department of budget and finance or the governor determines otherwise.”

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SECTION 4. The appropriations and authorizations, or the expending agency, as the case may be, set forth opposite the cost categories in Part II, Section 3 of Act 216, Session Laws of Hawaii 1987, for the following programs are amended to read:

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS					
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89			
A. ECONOMIC DEVELOPMENT									
1. BED102 - COMMERCE AND INDUSTRY									
				29.00 *		29.00 *			
	OPERATING		BED	10,860,462 A		13,692,886 A			
			BED	2,400,000 W		2,400,000 W			
	INVESTMENT CAPITAL		AGS	75,000 A		1,000,000 C			
			AGS						
			BED	478,000 A					
			BED	4,076,000 C		20,997,000 C			
			COM	50,000 C					
2. BED113 - STATE TOURISM OFFICE									
				3.00 *		3.00 *			
	OPERATING		BED	15,680,351 A		16,040,119 A			
			BED	1,400,000 R		1,500,000 R			
			BED	100,000 X		100,000 X			
3. BED107 - FOREIGN TRADE ZONE SERVICES									
				24.00 *		24.00 *			
	OPERATING		BED	1,383,980 B		1,411,184 B			
4. AGR101 - FINANCIAL ASSISTANCE FOR AGRICULTURE									
				15.00 *		15.00 *			
	OPERATING		AGR	750,359 B		810,798 B			
			AGR	2,250,000 W		2,250,000 W			
5. AGR103 - PRICE & PRODUCTION CONTROLS FOR DAIRY PRDTS									
				6.00 *		6.00 *			
	OPERATING		AGR	176,110 A		244,684 A			
6. AGR121 - PLANT QUARANTINE									
				51.90 *		51.90 *			
	OPERATING		AGR	1,274,709 A		1,279,722 A			
	INVESTMENT CAPITAL		AGS	125,000 C					
7. AGR122 - PLANT PEST CONTROL									
				32.10 *		32.10 *			
	OPERATING		AGR	1,278,284 A		1,371,343 A			
8. AGR131 - ANIMAL QUARANTINE									
				40.00 *		40.00 *			
	OPERATING		AGR	1,395,679 A		1,429,522 A			
			AGR	85,276 U		85,276 U			
	INVESTMENT CAPITAL		AGS	180,000 C					
9. AGR132 - ANIMAL DISEASE CONTROL									
				23.50 *		23.50 *			
	OPERATING		AGR	929,360 A		927,259 A			
			AGR	42,615 T		44,320 T			
	INVESTMENT CAPITAL		AGS	261,000 C					
10. LNR172 - FORESTRY - PRODUCTS DEVELOPMENT									

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				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89
		OPERATING	LNR	24.00 *		24.00 *
			LNR	738,780 A		745,754 A
				103,544 N		103,544 N
11.	AGR151 - DISTRIBUTION SYSTEMS IMPROVEMENT FOR AGR			38.00 *		39.00 *
	OPERATING	AGR	AGR	2,109,053 A		2,438,898 A
			AGR	424,883 B		425,500 B
		INVESTMENT CAPITAL	AGR	11,334 N		11,532 N
			AGS	675,000 A		
			AGS	106,000 C		
12.	AGR189 - DATA COLLECTION FOR AGR			12.00 *		12.00 *
	OPERATING	AGR	AGR	442,491 A		448,463 A
13.	AGR192 - GENERAL ADMINISTRATION FOR AGR			37.00 *		40.00 *
	OPERATING	AGR	AGR	1,261,708 A		1,630,234 A
	INVESTMENT CAPITAL	AGS	AGS	1,442,000 A		
		AGS	AGS	109,000 C		427,000 C
			LNR	930,000 C		
14.	AGR102 - FINANCIAL ASSISTANCE FOR AQUACULTURE					
	OPERATING	AGR	AGR	80,000 W		80,000 W
15.	LNR153 - COMMERCIAL FISHERY AND AQUACULTURE			21.00 *		21.00 *
	OPERATING	LNR	LNR	2,178,991 A		1,914,315 A
			LNR	165,940 N		165,940 N
	INVESTMENT CAPITAL	LNR	LNR	125,000 C		
16.	BED120 - ENERGY DEVELOPMENT AND MANAGEMENT			10.00 *		10.00 *
	OPERATING	BED	BED	1,227,857 A		1,977,093 A
			BED	563,000 B		583,000 B
		INVESTMENT CAPITAL	BED	490,000 N		490,000 N
			BED	875,000 A		125,000 A
			BED	610,000 C		5,140,000 C
			BED			500,000 N
17.	LNR141 - WATER DEVELOPMENT & IRRIGATION SERVICES			18.00 *		18.00 *
	OPERATING	LNR	LNR	737,052 A		1,128,704 A
			LNR	320,000 B		320,000 B
	INVESTMENT CAPITAL	LNR	LNR	7,195,000 A		A
			LNR	6,935,000 C		11,660,000 C
18.	BED130 - ECON PLANNING & RESEARCH FOR ECON DEVPMT			15.00 *		15.00 *
	OPERATING	BED	BED	655,236 A		668,826 A
19.	BED142 - GENERAL SUPPORT FOR ECONOMIC DEVELOPMENT			28.00 *		31.00 *
	OPERATING	BED	BED	1,363,762 A		1,878,134 A
B.	EMPLOYMENT					
1.	LBR111 - PLACEMENT SERVICES					

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				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
				3.00 *		3.00 *	
		OPERATING	LBR	69,272 A		69,769 A	
				135.50 *		135.50 *	
			LBR	7,489,049 N		7,521,625 N	
2.	LBR123 - APPRENTICESHIP & OTHER TRAINING PROGRAMS				7.00 *		7.00 *
	OPERATING		LBR	188,126 A		186,095 A	
3.	LBR131 - EMPLOYMENT AND TRAINING PROGRAMS					2.00 *	
	OPERATING		LBR	680,205 A		1,001,466 A	
				15.00 *		15.00 *	
			LBR	10,667,017 N		11,068,928 N	
4.	LBR135 - COMMISSION ON EMPLOYMENT & HUMAN RESOURCES				5.00 *		5.00 *
	OPERATING		LBR	180,577 A		189,347 A	
			LBR	135,000 N		135,000 N	
5.	LBR136 - TRANSITION CENTER						
	OPERATING		LBR	960,054 A		1,045,517 A	
6.	LBR143 - OCCUPATIONAL SAFETY & HEALTH				50.50 *		50.50 *
	OPERATING		LBR	1,394,420 A		1,394,896 A	
				29.50 *		29.50 *	
			LBR	1,136,987 N		1,146,644 N	
7.	LBR152 - WAGE STANDARDS & FAIR EMPLOYMENT PRACTICES				29.00 *		30.00 *
	OPERATING		LBR	841,252 A		899,531 A	
			LBR	45,000 N		45,000 N	
8.	LBR161 - PUBLIC AND PRIVATE EMPLOYMENT				3.00 *		3.00 *
	OPERATING		LBR	528,902 A		536,196 A	
9.	LBR171 - UNEMPLOYMENT COMPENSATION						
	OPERATING		LBR	2,101,715 A		2,201,801 A	
			LBR	73,066,000 B		84,114,723 B	
				279.85 *		279.85 *	
			LBR	9,134,332 N		8,323,352 N	
10.	LBR183 - DISABILITY COMPENSATION				122.00 *		133.00 *
	OPERATING		LBR	3,220,955 A		3,280,735 A	
			LBR	8,537,500 B		9,037,500 B	
11.	SOC802 - VOCATIONAL REHABILITATION				32.70 *		34.90 *
	OPERATING		SOC	2,766,400 A		3,060,978 A	
			SOC	618,306 B		643,657 B	
				93.30 *		95.10 *	
			SOC	3,777,355 N		4,031,172 N	
12.	LBR901 - DLIR-DATA GATHERING, RESEARCH AND ANALYSIS						

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				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89
		OPERATING	LBR	12.40 *		14.10 *
				830,657 A		926,990 A
				26.60 *		25.90 *
			LBR	1,303,003 N		1,314,375 N
13.	LBR902 - GENERAL ADMINISTRATION					
	OPERATING		LBR	26.20 *		31.70 *
				769,301 A		1,025,294 A
				38.30 *		34.80 *
			LBR	1,729,246 N		1,737,728 N
14.	LBR903 - OFFICE OF COMMUNITY SERVICES					
	OPERATING		LBR	7.00 *		7.00 *
				3,554,467 A		4,311,546 A
				3.00 *		3.00 *
			LBR	3,705,805 N		3,705,805 N
15.	LBR812 - LABOR & INDUSTRIAL RELATIONS APPEALS BOARD					
	OPERATING		LBR	9.00 *		9.00 *
				425,119 A		429,366 A
C.	TRANSPORTATION FACILITIES					
1.	TRN102 - HIA FACILITIES & SVCS					
	OPERATING		TRN	483.00 *		484.00 *
	INVESTMENT CAPITAL		TRN	39,636,443 B		36,423,225 B
			TRN	15,000,000 B		18,500,000 B
			TRN	75,810,000 E		70,150,000 E
			TRN	2,200,000 N		1,500,000 N
2.	TRN104 - GENERAL AVIATION FACILITIES AND SERVICES					
	OPERATING		TRN	2.00 *		2.00 *
				201,428 B		184,400 B
3.	TRN111 - GENERAL LYMAN FIELD FACILITIES & SERVICES					
	OPERATING		TRN	74.00 *		74.00 *
				4,757,356 B		5,059,460 B
4.	TRN114 - KE-AHOLE AIRPORT FACILITIES AND SERVICES					
	OPERATING		TRN	56.00 *		58.00 *
	INVESTMENT CAPITAL		AGS	3,299,199 B		4,142,693 B
			TRN	250,000 C		
			TRN	7,600,000 E		5,000,000 E
			TRN	500,000 N		
5.	TRN116 - WAIMEA-KOHALA AIRPORT FACILITIES & SERVICES					
	OPERATING		TRN	2.00 *		2.00 *
				349,277 B		162,200 B
6.	TRN118 - UPOLU AIRPORT FACILITIES & SERVICES					
	OPERATING		TRN	63,296 B		12,291 B
7.	TRN131 - KAHULUI AIRPORT FACILITIES AND SERVICES					
	OPERATING		TRN	79.00 *		81.00 *
	INVESTMENT CAPITAL		TRN	4,357,528 B		5,416,885 B
			TRN	3,000,000 B		5,000,000 B
			TRN	8,050,000 E		19,300,000 E

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				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
			TRN	1,000,000	N	1,000,000	N
8.	TRN133	- HANA AIRPORT FACILITIES AND SERVICES					
		OPERATING	TRN	1.00 *		1.00 *	
			TRN	226,937	B	166,846	B
9.	TRN141	- MOLOKAI AIRPORT FACILITIES AND SERVICES					
		OPERATING	TRN	7.00 *		7.00 *	
		INVESTMENT CAPITAL	TRN	784,176	B	630,892	B
			TRN	1,400,000	E	800,000	E
10.	TRN143	- KALAUPAPA AIRPORT FACILITIES AND SERVICES					
		OPERATING	TRN	1.00 *		1.00 *	
		INVESTMENT CAPITAL	TRN	80,048	B	30,420	B
			TRN			1,000,000	B
11.	TRN151	- LANAI AIRPORT FACILITIES AND SERVICES					
		OPERATING	TRN	3.00 *		4.00 *	
		INVESTMENT CAPITAL	TRN	363,261	B	266,549	B
			TRN			1,150,000	B
12.	TRN161	- LIHUE AIRPORT FACILITIES AND SERVICES					
		OPERATING	TRN	72.00 *		80.00 *	
		INVESTMENT CAPITAL	TRN	4,595,319	B	5,311,061	B
			TRN			100,000	B
			TRN	2,600,000	E	3,700,000	E
			TRN	200,000	N		
13.	TRN163	- PORT ALLEN AIRPORT FACILITIES AND SERVICES					
		OPERATING	TRN	682	B		B
14.	TRN195	- AIR TRANSPORTATION FACILITIES & SVCS SUPPORT					
		OPERATING	TRN	79,000	A		
				65.00 *		72.00 *	
		INVESTMENT CAPITAL	TRN	67,657,369	B	79,294,458	B
			TRN	1,000,000	B	500,000	B
			TRN	9,250,000	E	4,400,000	E
			TRN	1,100,000	N	500,000	N
15.	TRN301	- HONOLULU HARBOR FACILITIES AND SERVICES					
		OPERATING	TRN	129.00 *		129.00 *	
		INVESTMENT CAPITAL	TRN	8,416,743	B	8,703,561	B
			TRN	360,000	B	455,000	B
			TRN	500,000	C		
			TRN			1,580,000	D
			TRN	3,723,000	E	1,120,000	E
16.	TRN303	- BARBERS POINT HARBOR FACILITIES AND SERVICES					
		OPERATING	TRN	2.00 *		2.00 *	
		INVESTMENT CAPITAL	TRN	162,278	B	189,714	B
			TRN			600,000	B
			TRN			7,800,000	C
			TRN			9,700,000	E
17.	TRN305	- KEWALO BASIN FACILITIES AND SERVICES					
		OPERATING	TRN	3.00 *		3.00 *	
		INVESTMENT CAPITAL	TRN	416,250	B	439,033	B
			TRN	1,490,000	C		
18.	TRN311	- HILO HARBOR FACILITIES AND SERVICES					

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				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
					10.00 *		10.00 *
		OPERATING INVESTMENT CAPITAL	TRN	858,324 B		875,440 B	
			TRN	310,000 B			
19.	TRN313	- KAWAIHAE HARBOR FACILITIES AND SERVICES			4.00 *		4.00 *
		OPERATING INVESTMENT CAPITAL	TRN	313,191 B		314,757 B	
			TRN	825,000 B			
			TRN			4,350,000 E	
20.	TRN331	- KAHULUI HARBOR FACILITIES AND SERVICES			13.00 *		13.00 *
		OPERATING INVESTMENT CAPITAL	TRN	911,410 B		886,593 B	
			TRN	240,000 B			
21.	TRN341	- KAUNAKAKAI HARBOR FACILITIES AND SERVICES			1.00 *		1.00 *
		OPERATING INVESTMENT CAPITAL	TRN	113,338 B		114,396 B	
			TRN			600,000 D	
22.	TRN361	- NAWILIWILI HARBOR FACILITIES AND SERVICES			11.50 *		12.50 *
		OPERATING INVESTMENT CAPITAL	TRN	658,025 B		672,211 B	
			TRN	430,000 B			
			TRN			900,000 B	
			TRN			900,000 D	
			TRN				3,000,000 E
23.	TRN363	- PORT ALLEN HARBOR FACILITIES AND SERVICES			1.00 *		1.00 *
		OPERATING INVESTMENT CAPITAL	TRN	144,273 B		144,786 B	
			TRN			600,000 B	
24.	TRN395	- WATER TRANSPORTATION FAC & SVCS SUPPORT			52.00 *		54.00 *
		OPERATING INVESTMENT CAPITAL	TRN	15,941,763 B		17,197,287 B	
			TRN	375,000 B			
			TRN	1,255,000 E		130,000 B	
25.	TRN501	- OAHU HIGHWAYS AND SERVICES			219.00 *		219.00 *
		OPERATING INVESTMENT CAPITAL	TRN	18,973,299 B		19,305,019 B	
			TRN	375,000 B		380,000 B	
			TRN	19,832,000 D		18,664,000 D	
			TRN	69,069,000 J		94,744,000 J	
			TRN	15,182,000 K		10,226,000 K	
			TRN	1,676,000 L			
			TRN	3,900,000 N			
26.	TRN511	- HAWAII HIGHWAYS AND SERVICES			110.00 *		110.00 *
		OPERATING INVESTMENT CAPITAL	TRN	6,921,866 B		7,573,881 B	
			TRN	188,000 B		188,000 B	
			TRN	564,000 D		9,918,000 D	
			TRN	674,000 L		5,544,000 L	
			TRN			4,500,000 N	
27.	TRN531	- MAUI HIGHWAYS AND SERVICES			54.00 *		54.00 *
		OPERATING	TRN	4,300,798 B		4,748,675 B	

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				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		INVESTMENT CAPITAL	TRN	726,000	B	726,000	B
			TRN	5,999,000	D	4,567,000	D
			TRN	11,206,000	K	6,536,000	K
			TRN	2,755,000	N	2,400,000	N
28.	TRN541	- MOLOKAI HIGHWAYS AND SERVICES			12.00 *		12.00 *
		OPERATING	TRN	1,354,156	B	1,369,117	B
		INVESTMENT CAPITAL	TRN	60,000	B	600,000	B
			TRN		D		
			TRN	289,000	N		
29.	TRN551	- LANAI HIGHWAYS AND SERVICES			3.00 *		3.00 *
		OPERATING	TRN	387,856	B	405,290	B
		INVESTMENT CAPITAL	TRN			33,000	B
30.	TRN561	- KAUAI HIGHWAYS AND SERVICES			41.00 *		41.00 *
		OPERATING	TRN	3,582,823	B	3,166,105	B
		INVESTMENT CAPITAL	TRN	160,000	B	202,000	B
			TRN	370,000	D	2,266,000	D
			TRN	305,000	K	2,291,000	K
			TRN	101,000	N	3,070,000	N
31.	TRN595	- LAND TRANSPORTATION FAC & SVCS SUPPORT			49.00 *		49.00 *
		OPERATING	TRN	32,420,572	B	33,674,414	B
		INVESTMENT CAPITAL	TRN	867,000	B	816,000	B
			TRN	1,225,000	D	1,325,000	D
			TRN	3,325,000	N	3,225,000	N
32.	TRN597	- SAFETY ADMINISTRATION OF LAND TRANSPORTATION			21.50 *		21.50 *
		OPERATING	TRN	706,339	B	711,827	B
				4.50 *		4.50 *	
			TRN	157,707	N	158,619	N
33.	TRN995	- OVERALL PROGRAM SUPPORT FOR TRANS FAC & SVCS			84.00 *		85.00 *
		OPERATING	TRN	4,106,151	B	5,702,297	B
D.		ENVIRONMENTAL PROTECTION					
1.	HTH840	- SOLIDS, LIQUIDS, GASES, AND NOISE					
		OPERATING	HTH	1,653,488	A	1,775,833	A
				10.00 *		12.00 *	
		INVESTMENT CAPITAL	HTH	1,041,255	N	1,156,296	N
			HTH	2,600,000	C	5,500,000	C
2.	AGR846	- PESTICIDES			19.00 *		19.00 *
		OPERATING	AGR	491,939	A	734,040	A
3.	LNR401	- AQUATIC RESOURCES			24.00 *		24.00 *
		OPERATING	LNR	722,980	A	821,414	A

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				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89
			LNR	85,604	N	85,817 N
4.	LNR402 - FORESTS AND WILDLIFE RESOURCES			58.00 *		58.00 *
	OPERATING		LNR	1,664,037	A	1,588,801 A
	INVESTMENT CAPITAL		LNR	381,689	N	380,189 N
			LNR	1,843,000	C	599,000 C
5.	LNR403 - MINERAL RESOURCES			3.00 *		3.00 *
	OPERATING		LNR	84,544	A	85,053 A
6.	LNR404 - WATER RESOURCES			13.00 *		13.00 *
	OPERATING		LNR	997,968	A	1,212,579 A
	INVESTMENT CAPITAL		LNR	350,000	C	2,550,000 C
7.	LNR405 - CONSERVATION & RESOURCES ENFORCEMENT			79.00 *		79.00 *
	OPERATING		LNR	2,458,561	A	2,665,960 A
			LNR	29,922	N	30,193 N
8.	TRN903 - COASTAL AREAS					
	OPERATING		TRN	14,695	A	15,297 A
9.	HTH850 - POLICY DVLPMENT,COORD & ANLYS FOR NAT P ENVIR			11.00 *		11.00 *
	OPERATING		HTH	450,817	A	587,155 A
10.	LNR906 - LNR-NATURAL PHYSICAL ENVIRONMENT			35.50 *		35.50 *
	OPERATING		LNR	1,460,575	A	1,470,808 A
			LNR	28,807	N	29,600 N
			LNR	50,000	R	50,000 R
11.	HTH849 - HTH-NATURAL PHYSICAL ENVIRONMENT			14.50 *		14.50 *
	OPERATING		HTH	839,991	A	879,824 A
			HTH	2.50 *		2.50 *
			HTH	161,581	N	171,114 N
E.	HEALTH					
1.	HTH101 - TUBERCULOSIS			46.00 *		46.00 *
	OPERATING		HTH	1,466,712	A	1,448,319 A
			HTH	64,799	N	64,799 N
2.	HTH111 - HANSEN'S DISEASE			73.00 *		73.00 *
	OPERATING		HTH	3,534,492	A	3,619,432 A
			HTH	165,000	B	170,000 B
			HTH	452,656	N	456,389 N
	INVESTMENT CAPITAL		AGS	539,000	C	
3.	HTH121 - SEXUALLY TRANSMITTED DISEASES			10.00 *		10.00 *
	OPERATING		HTH	701,377	A	701,917 A

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				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
			HTH	4.00 *		4.00 *	
				514,921 N		522,851 N	
4.	HTH131 - OTHER COMMUNICABLE DISEASES						
	OPERATING		HTH	10.00 *		10.00 *	
				783,331 A		866,900 A	
			HTH	1.00 *		1.00 *	
				166,209 N		166,209 N	
5.	HTH139 - SUPPORTING SERVICES FOR COMMUN DISEASES						
	OPERATING		HTH	8.00 *		8.00 *	
				245,876 A		234,017 A	
6.	HTH141 - DENTAL DISEASES						
	OPERATING		HTH	43.60 *		43.60 *	
				987,176 A		990,102 A	
7.	HTH151 - CHRONIC DISEASES						
	OPERATING		HTH	5.00 *		5.00 *	
				801,766 A		870,942 A	
8.	HTH160 - NUTRITION SERVICES						
	OPERATING		HTH	9.75 *		9.75 *	
				246,877 A		258,043 A	
			HTH	7.00 *		7.00 *	
				5,998,158 N		6,508,391 N	
9.	HTH170 - EMERGENCY MEDICAL SERVICES						
	OPERATING		HTH	10.00 *		10.00 *	
			HTH	15,741,066 A		17,796,135 A	
				210,515 N		210,515 N	
10.	HTH185 - FAMILY PLANNING						
	OPERATING		HTH	5.00 *		5.00 *	
				692,355 A		760,127 A	
			HTH	6.00 *		6.00 *	
				1,016,115 N		1,040,378 N	
11.	HTH191 - SCHOOL HEALTH SERVICES						
	OPERATING		HTH	353.25 *		353.25 *	
				6,013,528 A		6,030,199 A	
			HTH	2.00 *		2.00 *	
				74,742 N		74,742 N	
12.	HTH801 - HEALTH CARE SERVICES						
	OPERATING		HTH	37.00 *		41.50 *	
				2,643,504 A		3,164,440 A	
			HTH	44.00 *		44.00 *	
				1,731,274 N		1,732,413 N	
13.	HTH211 - HILO HOSPITAL						
	OPERATING		HTH	314,062 A		A	
				554.20 *		554.20 *	
			HTH	21,806,221 B		21,117,911 B	
	INVESTMENT CAPITAL		AGS	1,628,000 A			
			AGS	C			
14.	HTH212 - HONOKAA HOSPITAL						

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ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		OPERATING	HTH	629,073 A 45.00 *		430,543 A 45.00 *	
			HTH	1,262,000 B		1,346,835 B	
		INVESTMENT CAPITAL	AGS	300,000 C			
15.	HTH213 - KA'U HOSPITAL						
	OPERATING		HTH	591,196 A 32.00 *		457,958 A 32.00 *	
			HTH	656,600 B		739,467 B	
	INVESTMENT CAPITAL		AGS	157,000 C			
16.	HTH214 - KOHALA HOSPITAL						
	OPERATING		HTH	626,319 A 36.50 *		483,201 A 36.50 *	
			HTH	830,775 B		917,534 B	
17.	HTH215 - KONA HOSPITAL						
	OPERATING		HTH	2,048,480 A 197.00 *		1,653,666 A 197.00 *	
			HTH	6,593,021 B		9,890,012 B	
	INVESTMENT CAPITAL		AGS	260,000 C			
18.	HTH221 - MAUI MEMORIAL HOSPITAL						
	OPERATING		HTH	461.00 *		461.00 *	
	INVESTMENT CAPITAL		AGS	20,169,275 B 454,000 C		20,338,269 B 11,792,000 C	
19.	HTH222 - HANA MEDICAL CENTER						
	OPERATING		HTH	357,973 A 7.00 *		308,099 A 7.00 *	
			HTH	123,561 B		160,310 B	
20.	HTH223 - KULA HOSPITAL						
	OPERATING		HTH	1,041,355 A 176.00 *		731,538 A 176.00 *	
			HTH	4,301,785 B		4,386,522 B	
21.	HTH224 - LANAI HOSPITAL						
	OPERATING		HTH	98,058 A 22.00 *		41,664 A 22.00 *	
			HTH	745,000 B		755,221 B	
	INVESTMENT CAPITAL		AGS	50,000 C			
22.	HTH231 - KAUAI VETERANS MEMORIAL HOSPITAL						
	OPERATING		HTH	1,511,821 A 128.00 *		1,122,496 A 128.00 *	
			HTH	3,572,700 B		3,732,291 B	
	INVESTMENT CAPITAL		AGS	690,000 C		A 2,000,000 C	
23.	HTH232 - SAMUEL MAHELONA MEMORIAL HOSPITAL						
	OPERATING		HTH	667,586 A 145.00 *		442,820 A 145.00 *	
			HTH	3,449,223 B		3,515,180 B	
	INVESTMENT CAPITAL		AGS	50,000 C			
24.	HTH241 - MALUHIA HOSPITAL						
	OPERATING		HTH	902,283 A 187.00 *		534,080 A 187.00 *	

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				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89
		INVESTMENT CAPITAL	HTH AGS AGS	4,722,614 B 426,000 C		4,787,120 B A 954,000 C
25.	HTH242 - LEAHI HOSPITAL OPERATING		HTH	3,013,270 A 291.00 *		1,890,513 A 294.00 *
		INVESTMENT CAPITAL	HTH AGS AGS	6,058,888 B 25,000 A 125,000 C		7,323,789 B A 159,000 C
26.	HTH401 - COMMUNITY BASED SERVICES FOR MH OPERATING		HTH	307.00 * 18,106,312 A 3.00 *		307.00 * 19,875,685 A 3.00 *
			HTH	2,800,999 N		2,800,999 N
27.	HTH430 - HAWAII STATE HOSPITAL OPERATING		HTH	445.00 * 11,361,363 A		440.00 * 11,363,965 A
		INVESTMENT CAPITAL	AGS AGS	15,000,000 A C		
28.	HTH495 - GENERAL SUPPORT FOR MH OPERATING		HTH	32.00 * 1,256,589 A 1.00 *		32.00 * 1,265,389 A 1.00 *
			HTH	521,884 N		521,884 N
29.	HTH500 - IDENTIFICATION, EVALUATION & TREATMT FOR DD OPERATING		HTH	66.25 * 3,207,045 A		71.25 * 3,356,111 A
30.	HTH501 - COMMUNITY BASED SERVICES FOR DD OPERATING		HTH	62.00 * 4,580,534 A		64.00 * 7,625,593 A
31.	HTH511 - WAIMANO TRAINING SCHOOL AND HOSPITAL OPERATING		HTH HTH AGS	475.00 * 14,723,359 A 5,944,348 X 341,000 C		470.00 * 12,916,867 A 5,266,511 X 754,000 C
32.	HTH601 - VECTOR CONTROL OPERATING		HTH	87.00 * 1,944,513 A 2.00 *		87.00 * 1,942,950 A 2.00 *
			HTH	42,838 X		45,266 X
33.	HTH611 - SANITATION & SUBSTANCE CONTROL OPERATING		HTH	89.50 * 2,263,092 A		83.50 * 2,121,476 A
34.	HTH621 - DRINKING WATER QUALITY OPERATING		HTH	7.00 * 797,317 A 6.00 *		12.00 * 482,864 A 6.00 *
			HTH	313,640 N		316,573 N
35.	HTH701 - MEDICAL FACILITIES-STDS,INSPECTION,LICENSING					

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				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89
				14.50 *		14.50 *
		OPERATING	HTH	587,056 A		601,545 A
				6.00 *		6.00 *
			HTH	272,546 N		272,546 N
36.	HTH901	- LABORATORY SERVICES				
				58.00 *		71.00 *
		OPERATING	HTH	2,014,761 A		2,633,615 A
		INVESTMENT CAPITAL	AGS	180,000 C		1,639,000 C
37.	HTH902	- PUBLIC HEALTH NURSING SERVICES				
		OPERATING	HTH	4,298,700 A		4,405,148 A
				4.00 *		4.00 *
			HTH	35,000 B		35,000 B
			HTH	498,442 N		498,442 N
38.	HTH903	- RECORDS, DATA COLLECTION AND RESEARCH				
		OPERATING	HTH	1,391,349 A		1,582,704 A
			HTH	67,000 N		67,000 N
39.	HTH908	- HEALTH EDUCATION				
		OPERATING	HTH	917,192 A		991,821 A
			HTH	310,651 N		310,651 N
40.	HTH906	- COMPREHENSIVE HEALTH PLANNING				
		OPERATING	HTH	383,612 A		386,501 A
41.	HTH907	- GENERAL ADMINISTRATION				
		OPERATING	HTH	4,589,311 A		4,931,217 A
			HTH	20.00 *		20.00 *
			HTH	1,532,448 B		2,566,821 B
			HTH	5.50 *		8.00 *
		INVESTMENT CAPITAL	AGS	380,930 N		380,930 N
			AGS	250,000 C		296,000 C
42.	SUB601	- PRIVATE HOSPITALS & MEDICAL SERVICES				
		OPERATING	SUB	1,259,043 A		1,726,043 A
		INVESTMENT CAPITAL	HTH	1,500,000 C		
F. SOCIAL SERVICES						
1.	SOC111	- SERVICES TO INDIVIDUALS AND FAMILIES				
		OPERATING	SOC	12,470,694 A		15,218,045 A
				204.00 *		204.00 *
			SOC	13,193,867 N		13,646,220 N
			SOC	148,886 U		148,886 U
2.	SOC201	- PAYMNTS TO ASSIST FAMILIES WITH DEPNDNT CHLD				
		OPERATING	SOC	35,706,980 A		38,448,523 A
			SOC	37,780,779 N		40,962,197 N
3.	SOC202	- PAYMNTS TO ASSIST THE AGED, BLIND & DISABLED				

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				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		OPERATING	SOC	6,004,820 A		6,102,300 A	
4.	SOC203 - CHILD FOSTER BOARD PAYMENTS						
	OPERATING		SOC	3,332,844 A		3,724,356 A	
			SOC	77,436 N		77,436 N	
5.	SOC204 - OTHER GENERAL ASSISTANCE PAYMENTS						
	OPERATING		SOC	16,957,600 A		18,624,800 A	
6.	SOC206 - OTHER FEDERAL ASSISTANCE PAYMENTS						
	OPERATING		SOC	1,921,166 N		1,921,166 N	
7.	SOC220 - RENTAL HOUSING AUGMENTATION AND ASSISTANCE						
	OPERATING		SOC	2,323,592 A	9.00 *	1,370,545 A	
				26.50 *		26.50 *	
			SOC	1,452,195 B		1,485,437 B	
				183.00 *		175.00 *	
	INVESTMENT CAPITAL		SOC	17,972,426 N		18,219,740 N	
			SOC	2,290,000 C			
8.	BED225 - PRIVATE HOUSING DEVELOPMENT AND OWNERSHIP						
	OPERATING		BED	500,000 A		215,600 A	
				15.00 *		15.00 *	
			BED	1,619,062 B		1,658,862 B	
	INVESTMENT CAPITAL		BED	1,000,000 A			
			BED	17,150,000 C		5,935,000 C	
			BED			75,000,000 E	
9.	BED223 - BROADENED HOMESITE OWNERSHIP						
	OPERATING		BED	1.00 *		1.00 *	
				405,479 B		416,503 B	
10.	SOC807 - TEACHER HOUSING						
	OPERATING		SOC	.50 *		.50 *	
	INVESTMENT CAPITAL		AGS	220,489 B		228,278 B	
				905,000 C			
11.	SOC229 - HOUSING ASSISTANCE ADMINISTRATION						
	OPERATING		SOC	14.00 *		14.00 *	
				916,799 B		927,607 B	
			SOC	12.00 *		12.00 *	
				720,171 N		714,961 N	
12.	BED227 - HOUSING FINANCE PROGRAM						
	OPERATING		BED	4.00 *		4.00 *	
				594,091 B		611,358 B	
13.	BED229 - HOUSING FINANCE AND DEVELOPMENT ADMINISTRATION						
14.	SOC230 - HEALTH CARE PAYMENTS						
	OPERATING		SOC	113,928,727 A		121,066,305 A	
			SOC	81,061,884 N		86,540,353 N	
			SOC	6,693,856 U		6,961,610 U	
15.	SOC905 - VETERANS CEMETERIES AND BURIAL PAYMENTS						
	OPERATING		SOC	40,923 A	2.00 *		
						100,134 A	
16.	SOC236 - ELIGIBILITY DETERMINATION						

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				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89
				331.72 *		331.72 *
	OPERATING		SOC	12,878,855 A		9,792,738 A
				256.78 *		256.78 *
			SOC	16,798,919 N		10,561,646 N
17.	SOC238 - DISABILITY DETERMINATION			51.00 *		51.00 *
	OPERATING		SOC	2,550,337 N		2,601,690 N
18.	ATG500 - CHILD SUPPORT ENFORCEMENT SERVICES			37.35 *		45.27 *
	OPERATING		ATG	1,020,236 A		1,412,021 A
				50.65 *		63.73 *
			ATG	4,230,531 N		4,654,031 N
19.	HHL602 - PLANNG, DEV, MGT & GEN SPPT FOR HAWN HMSTDs			49.00 *		
	OPERATING		HHL			972,803 A
				98.00 *		49.00 *
			HHL	3,270,384 B		2,111,845 B
	INVESTMENT CAPITAL		HHL	10,700,000 A		A
			HHL	875,000 C		7,920,000 C
			HHL	1,225,000 D		1,983,000 D
20.	GOV861 - PLAN, PRGM DEV & COORD OF SVCS FOR CHD & YTH			11.00 *		11.00 *
	OPERATING		GOV	382,105 A		686,915 A
21.	GOV602 - ELDERLY			7.90 *		7.90 *
	OPERATING		GOV	4,393,241 A		5,522,699 A
				9.10 *		9.10 *
			GOV	3,520,825 N		3,520,825 N
22.	HTH520 - HANDICPPD			2.00 *		2.00 *
	OPERATING		HTH	241,421 A		238,959 A
23.	SOC902 - GENERAL SUPPORT FOR HEALTH CARE PAYMENTS			22.87 *		22.39 *
	OPERATING		SOC	1,858,910 A		2,006,411 A
				27.13 *		26.61 *
			SOC	2,382,829 N		2,796,328 N
24.	SOC903 - GENERAL SUPPORT FOR PUBLIC WELFARE			29.44 *		33.20 *
	OPERATING		SOC	1,923,333 A		4,123,416 A
				41.56 *		45.80 *
			SOC	3,074,935 N		4,765,605 N
25.	SOC904 - GENERAL ADMINISTRATION (DSSH)			158.80 *		161.16 *
	OPERATING		SOC	4,301,382 A		4,988,340 A
				18.20 *		21.84 *
			SOC	631,443 N		772,880 N

G. FORMAL EDUCATION

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				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89
1.	EDN105	- REGULAR INSTRUCTION PROGRAM				
	OPERATING		EDN	6,393.00 *		6,461.00 *
			EDN	186,912,046 A		191,538,759 A
			EDN	9,671,712 N		9,674,712 N
	INVESTMENT CAPITAL		AGS	7,674,000 A		A
			AGS	29,929,000 C		36,760,000 C
2.	EDN106	- OTHER REGULAR INSTRUCTION				
	OPERATING		EDN	692.50 *		692.50 *
			EDN	38,176,524 A		39,885,506 A
			EDN	1,585,174 B		1,590,943 B
			EDN	1,965,874 N		1,573,835 N
3.	EDN107	- SPECIAL EDUCATION				
	OPERATING		EDN	874.50 *		1,216.00 *
			EDN	25,491,118 A		30,633,258 A
			EDN	20,000 B		20,000 B
	INVESTMENT CAPITAL		EDN	4,769,600 N		4,769,600 N
			AGS	6,000,000 A		A
			AGS	4,000,000 C		9,000,000 C
4.	EDN108	- COMPENSATORY EDUCATION				
	OPERATING		EDN	96.00 *		96.00 *
			EDN	6,994,511 A		7,081,075 A
			EDN	9,983,367 N		9,983,367 N
5.	EDN203	- SCHOOL ADMINISTRATION				
	OPERATING		EDN	821.50 *		825.50 *
	INVESTMENT CAPITAL		EDN	25,333,106 A		25,781,452 A
			AGS	1,205,000 A		
			AGS	795,000 C		
6.	EDN204	- INSTRUCTIONAL MEDIA				
	OPERATING		EDN	263.50 *		264.50 *
	INVESTMENT CAPITAL		EDN	9,151,194 A		9,325,057 A
			AGS	310,000 C		3,652,000 C
7.	EDN205	- INSTRUCTIONAL DEVELOPMENT				
	OPERATING		EDN	104.00 *		104.00 *
			EDN	6,734,360 A		6,727,999 A
			EDN	974,681 N		975,679 N
8.	EDN206	- COUNSELING				
	OPERATING		EDN	313.00 *		313.00 *
			EDN	10,448,478 A		10,462,088 A
9.	EDN207	- STUDENT ACTIVITIES				
	OPERATING		EDN	69.00 *		69.00 *
			EDN	4,377,718 A		4,411,014 A
10.	EDN208	- PSYCHOLOGICAL & SCHOOL SOCIAL WORK SERVICES				
	OPERATING		EDN	247.50 *		247.50 *
			EDN	8,682,405 A		9,335,109 A
11.	EDN303	- STATE ADMINISTRATION				
	OPERATING		EDN	222.00 *		227.00 *
			EDN	14,118,954 A		13,579,591 A
			EDN	819,153 N		819,153 N
12.	EDN304	- DISTRICT ADMINISTRATION				

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				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89
		OPERATING INVESTMENT CAPITAL	EDN AGS	225.00 * 8,419,454 A 300,000 C		228.00 * 8,438,551 A
13.	EDN305	- SCHOOL FOOD SERVICES				
		OPERATING	EDN	188.00 * 10,502,897 A 696.50 *		189.00 * 10,499,862 A 696.50 *
			EDN	12,493,930 B		12,682,737 B
		INVESTMENT CAPITAL	EDN AGS	17,845,215 N		18,693,851 N 2,450,000 C
14.	EDN306	- SAFETY AND SECURITY SERVICES				
		OPERATING	EDN	2,647,167 A		3,102,761 A
15.	EDN307	- PHYSICAL PLANT OPERATIONS & MAINTENANCE				
		OPERATING	EDN	1,026.60 * 28,355,832 A		1,032.10 * 28,787,761 A
16.	AGS807	- PHYSICAL PLANT OPERATIONS & MAINTENANCE-AGS				
		OPERATING	AGS	241.00 * 31,622,493 A		245.00 * 43,873,957 A
17.	AGS808	- STUDENT TRANSPORTATION				
		OPERATING	AGS	9.00 * 19,943,017 A		9.00 * 21,380,341 A
18.	EDN406	- ADULT EDUCATION				
		OPERATING	EDN	23.00 * 3,372,793 A		23.00 * 3,569,790 A
			EDN	369,091 B		373,149 B
			EDN	527,963 N		527,965 N
19.	EDN407	- PUBLIC LIBRARIES				
		OPERATING	EDN	490.55 * 15,884,754 A		501.55 * 16,627,022 A
			EDN	572,082 N		572,082 N
		INVESTMENT CAPITAL	AGS	9,825,000 A		A
			AGS	1,935,000 C		9,368,000 C
20.	UOH101	- INSTRUCTION - UOH, MANOA				
		OPERATING	UOH	1,569.71 * 62,852,698 A		1,601.71 * 67,157,180 A
				6.00 *		6.00 *
			UOH	4,537,398 B		4,611,050 B
			UOH	277,785 N		277,785 N
		INVESTMENT CAPITAL	AGS	346,000 A		20,001,000 A
			AGS	4,928,000 C		6,120,000 C
			AGS			15,000,000 N
			AGS			5,888,000 R
21.	UOH102	- ORGANIZED RESEARCH - UOH, MANOA				
		OPERATING	UOH	564.22 * 26,199,545 A		581.22 * 28,729,922 A
				2.00 *		4.00 *
			UOH	233,889 B		238,362 B
				34.42 *		34.42 *

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				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		INVESTMENT CAPITAL	UOH UOH AGS	1,379,842 N 5,356,357 W 9,115,000 C		1,399,399 N 5,718,097 W 1,262,000 C	
22.	UOH103 - PUBLIC SERVICE - UOH, MANOA				93.41 *	97.41 *	
	OPERATING		UOH	4,025,903 A 14.00 *	4,323,169 A 14.00 *		
			UOH	2,411,558 B 43.64 *	2,471,547 B 43.64 *		
			UOH	1,534,110 N 53,808 W		1,555,143 N 55,271 W	
23.	UOH104 - ACADEMIC SUPPORT - UOH, MANOA				355.85 *	361.35 *	
	OPERATING		UOH	15,293,543 A 9.50 *	15,774,567 A 9.50 *		
			UOH	892,346 B 6.00 *	908,144 B 6.00 *		
			UOH	1,205,690 W		1,244,755 W	
24.	UOH105 - STUDENT SERVICES - UOH, MANOA				204.75 *	207.75 *	
	OPERATING		UOH	6,927,512 A .25 *	7,025,608 A .25 *		
			UOH	298,559 B		309,630 B	
			UOH	880,000 N 148.75 *		880,000 N 152.25 *	
	INVESTMENT CAPITAL		UOH AGS AGS	35,343,068 W 250,000 C		36,604,814 W 2,147,000 A 638,000 C	
25.	UOH106 - INSTITUTIONAL SUPPORT - UOH, MANOA				364.00 *	368.00 *	
	OPERATING		UOH	31,807,634 A 13.00 *	32,196,979 A 13.00 *		
			UOH	997,658 B 10.00 *	949,374 B 10.00 *		
	INVESTMENT CAPITAL		UOH AGS AGS	2,878,288 W 2,786,000 C		2,981,009 W A 6,189,000 C	
26.	UOH211 - INSTRUCTION - UOH, HILO				216.50 *	218.50 *	
	OPERATING		UOH	7,961,477 A		8,414,270 A	
			UOH	481,981 B		485,234 B	
			UOH	103,223 N		103,223 N	
	INVESTMENT CAPITAL		UOH AGS	245,773 W 133,000 C		255,849 W 808,000 C	
27.	UOH213 - PUBLIC SERVICE - UOH, HILO				81,311 A	81,521 A	
	OPERATING		UOH	268,200 B		281,373 B	
28.	UOH214 - ACADEMIC SUPPORT - UOH, HILO				49.00 *	49.00 *	
	OPERATING		UOH	2,225,111 A 5.00 *		2,194,435 A 5.00 *	

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ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS		
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89
			UOH	254,652	B	258,651 B
29.	UOH215	- STUDENT SERVICES - UOH, HILO				
	OPERATING		UOH	30.50 *		30.50 *
			UOH	1,344,898 A		1,374,305 A
			UOH	394,543 N		394,543 N
				6.00 *		6.00 *
	INVESTMENT CAPITAL		UOH	2,038,855 W		2,113,681 W
			AGS			A
			AGS			11,250,000 C
30.	UOH216	- INSTITUTIONAL SUPPORT - UOH, HILO				
	OPERATING		UOH	51.00 *		53.00 *
			UOH	3,794,825 A		3,751,116 A
			UOH	95,257 B		98,788 B
			UOH	16,120 W		16,781 W
	INVESTMENT CAPITAL		AGS			A
			AGS	10,000 C		1,272,000 C
31.	UOH301	- INSTRUCTION - HONOLULU COMMUNITY COLLEGE				
	OPERATING		UOH	134.00 *		136.00 *
			UOH	4,951,718 A		5,360,438 A
			UOH	180,828 N		180,828 N
				2.00 *		2.00 *
	INVESTMENT CAPITAL		UOH	337,220 W		348,368 W
			AGS	600,000 C		
32.	UOH302	- PUBLIC SERVICE- HONOLULU COMMUNITY COLLEGE				
	OPERATING		UOH	8.00 *		9.00 *
			UOH	690,299 A		759,524 A
				1.00 *		1.00 *
			UOH	271,055 B		524,302 B
33.	UOH303	- ACADEMIC SUPPORT- HONOLULU COMMUNITY COLLEGE				
	OPERATING		UOH	29.00 *		29.00 *
			UOH	879,967 A		892,273 A
34.	UOH304	- STUDENT SERVICES- HONOLULU COMMUNITY COLLEGE				
	OPERATING		UOH	26.00 *		26.00 *
			UOH	679,639 A		676,279 A
			UOH	111,000 N		111,000 N
			UOH	47,485 W		52,613 W
35.	UOH305	- INSTITUTIONAL SUPPORT - HONOLULU CC				
	OPERATING		UOH	42.00 *		42.00 *
			UOH	1,537,560 A		1,603,203 A
			UOH	51,973 B		54,052 B
			UOH	110,473 W		114,892 W
36.	UOH311	- INSTRUCTION -KAPIOLANI COMMUNITY COLLEGE				
	OPERATING		UOH	129.60 *		134.60 *
			UOH	4,920,040 A		5,101,107 A
			UOH	88,562 N		88,562 N
				4.00 *		4.00 *
	INVESTMENT CAPITAL		UOH	454,534 W		468,789 W
			AGS	12,700,000 A		A
			AGS	545,000 C		5,709,000 C
37.	UOH312	- PUBLIC SERVICE-KAPIOLANI COMMUNITY COLLEGE				

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				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
				2.00 *		2.00 *	
		OPERATING	UOH	81,344 A		156,958 A	
				4.00 *		12.00 *	
			UOH	1,016,021 B		1,030,581 B	
38.	UOH313	- ACADEMIC SUPPORT-KAPIOLANI COMMUNITY COLLEGE			25.00 *		28.50 *
		OPERATING	UOH	813,607 A		936,613 A	
39.	UOH314	- STUDENT SERVICES-KAPIOLANI COMMUNITY COLLEGE			23.00 *		23.00 *
		OPERATING	UOH	663,233 A		666,589 A	
			UOH	91,020 N		91,020 N	
			UOH	71,316 W		73,236 W	
40.	UOH315	- INSTITUTIONAL SUPPORT - KAPIOLANI CC			37.00 *		38.00 *
		OPERATING	UOH	1,464,008 A		1,531,913 A	
			UOH	7,982 B		18,301 B	
			UOH	97,516 W		101,417 W	
		INVESTMENT CAPITAL	AGS			793,000 C	
41.	UOH321	- INSTRUCTION-LEEWARD COMMUNITY COLLEGE			154.50 *		155.50 *
		OPERATING	UOH	5,476,195 A		5,707,662 A	
			UOH	54,561 N		54,561 N	
			UOH	1.00 *		1.00 *	
			UOH	199,619 W		205,811 W	
42.	UOH322	- PUBLIC SERVICE-LEEWARD COMMUNITY COLLEGE			4.50 *		4.50 *
		OPERATING	UOH	145,198 A		146,483 A	
			UOH	1.00 *		1.00 *	
			UOH	312,250 B		317,315 B	
43.	UOH323	- ACADEMIC SUPPORT-LEEWARD COMMUNITY COLLEGE			27.00 *		27.00 *
		OPERATING	UOH	1,050,423 A		995,128 A	
44.	UOH324	- STUDENT SERVICES-LEEWARD COMMUNITY COLLEGE			34.00 *		34.00 *
		OPERATING	UOH	966,808 A		970,899 A	
			UOH	39,415 B		40,184 B	
			UOH	125,000 N		125,000 N	
			UOH	83,680 W		85,979 W	
45.	UOH325	- INSTITUTIONAL SUPPORT - LEEWARD CC			45.50 *		45.50 *
		OPERATING	UOH	1,888,797 A		1,929,460 A	
46.	UOH331	- INSTRUCTION-WINDWARD COMMUNITY COLLEGE			42.50 *		42.50 *
		OPERATING	UOH	1,485,375 A		1,495,634 A	
			UOH	14,069 W		14,632 W	
47.	UOH332	- PUBLIC SERVICE-WINDWARD COMMUNITY COLLEGE			2.00 *		2.00 *
		OPERATING	UOH	92,455 A		93,624 A	

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				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
				1.00 *		1.00 *	
			UOH	151,709 B		153,486 B	
48.	UOH333	- ACADEMIC SUPPORT-WINDWARD COMMUNITY COLLEGE OPERATING	UOH	14.00 *		14.00 *	
49.	UOH334	- STUDENT SERVICES-WINDWARD COMMUNITY COLLEGE OPERATING	UOH	514,835 A		524,279 A	
			UOH	398,928 A		393,555 A	
			UOH	48,117 N		48,117 N	
			UOH	27,067 W		27,230 W	
50.	UOH335	- INSTITUTIONAL SUPPORT - WINDWARD CC OPERATING	UOH	16.00 *		16.00 *	
			UOH	631,597 A		641,576 A	
			UOH	1.00 *		1.00 *	
			UOH	67,511 W		69,695 W	
51.	UOH501	- INSTRUCTION-MAUI COMMUNITY COLLEGE OPERATING	UOH	70.00 *		75.00 *	
			UOH	2,478,490 A		2,656,030 A	
			UOH	26,090 N		26,090 N	
			UOH	2.00 *		2.00 *	
			UOH	219,693 W		226,878 W	
52.	UOH502	- PUBLIC SERVICE-MAUI COMMUNITY COLLEGE OPERATING	UOH	3.50 *		3.50 *	
			UOH	142,152 A		142,817 A	
			UOH	.50 *		1.50 *	
			UOH	273,875 B		275,166 B	
53.	UOH503	- ACADEMIC SUPPORT-MAUI COMMUNITY COLLEGE OPERATING	UOH	17.00 *		17.00 *	
			UOH	570,403 A		732,448 A	
54.	UOH504	- STUDENT SEVICES-MAUI COMMUNITY COLLEGE OPERATING	UOH	12.50 *		12.50 *	
			UOH	432,690 A		434,123 A	
			UOH	2.00 *		2.00 *	
			UOH	183,773 B		188,807 B	
			UOH	118,000 N		118,000 N	
			UOH	5,309 W		5,521 W	
55.	UOH505	- INSTITUTIONAL SUPPORT-MAUI COMMUNITY COLLEGE OPERATING	UOH	24.50 *		24.50 *	
		INVESTMENT CAPITAL	AGS	1,044,715 A		1,084,651 A	
						200,000 C	
56.	UOH601	- INSTRUCTION-KAUAI COMMUNITY COLLEGE OPERATING	UOH	54.00 *		56.00 *	
			UOH	1,721,218 A		1,770,330 A	
			UOH	1,735 N		1,735 N	
			UOH	1.00 *		1.00 *	
			UOH	109,436 W		112,199 W	
57.	UOH602	- PUBLIC SERVICE - KAUAI COMMUNITY COLLEGE OPERATING	UOH	.50 *		1.50 *	
			UOH	22,770 A		47,854 A	

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				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		UOH		83,348	B	83,882	B
58.	UOH603 - ACADEMIC SUPPORT-KAUAI COMMUNITY COLLEGE OPERATING		UOH	15.50 *		15.50 *	
				517,957	A	533,002	A
59.	UOH604 - STUDENT SERVICES-KAUAI COMMUNITY COLLEGE OPERATING		UOH	12.00 *		12.00 *	
			UOH	348,955	A	351,826	A
			UOH	36,000	N	36,000	N
		INVESTMENT CAPITAL	UOH	3,538	W	3,680	W
			AGS			120,000	C
60.	UOH605 - INSTITUTIONAL SUPPORT - KAUAI CC OPERATING		UOH	25.50 *		25.50 *	
			UOH	1,375,472	A	1,399,377	A
			UOH	26,095	B	26,690	B
		INVESTMENT CAPITAL	AGS	331,000	C	8,049,000	C
61.	UOH701 - INSTRUCTION-WEST OAHU COLLEGE OPERATING		UOH	10.00 *		12.00 *	
			UOH	392,678	A	393,509	A
			UOH	49,140	B	51,597	B
62.	UOH704 - ACADEMIC SUPPORT-WEST OAHU COLLEGE OPERATING		UOH	3.50 *		4.50 *	
			UOH	168,201	A	184,109	A
63.	UOH705 - STUDENT SERVICES-WEST OAHU COLLEGE OPERATING		UOH	3.00 *		3.00 *	
			UOH	110,307	A	111,581	A
64.	UOH706 - INSTITUTIONAL SUPPORT-WEST OAHU COLLEGE OPERATING		UOH	4.00 *		4.00 *	
			UOH	314,053	A	370,080	A
65.	UOH901 - ACADEMIC SUPPORT-UOH, SYSTEM-WIDE SUPPORT OPERATING		UOH	44.50 *		44.50 *	
			UOH	4,668,291	A	4,802,897	A
			UOH	600,000	B	622,000	B
66.	UOH902 - STUDENT SERVICES-UOH, SYSTEM-WIDE SUPPORT OPERATING		UOH	529,497	A	551,155	A
67.	UOH903 - INSTITUTIONAL SPPT-UOH, SYSTEM-WIDE SPPT OPERATING		UOH	216.00 *		231.00 *	
			UOH	9,738,357	A	13,613,218	A
			UOH	6.00 *		6.00 *	
			UOH	444,869	B	329,499	B
68.	UOH904 - VOCATIONAL EDUCATION,STATEWIDE COORDINATION OPERATING		UOH	7.00 *		7.00 *	
			UOH	240,375	A	241,219	A
			UOH	4.00 *		4.00 *	
			UOH	346,064	N	351,669	N
69.	UOH905 - STATEWIDE PLAN & COORD FOR POST-SECONDARY ED						

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				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89
		OPERATING	UOH	1,235,741 A		1,282,954 A
70.	UOH906 - COMMUNITY COLLEGE SYSTEMWIDE SUPPORT			57.75 *		58.75 *
	OPERATING		UOH	7,998,003 A		7,376,534 A
				16.00 *		16.00 *
			UOH	1,067,705 B		1,078,149 B
				19.60 *		19.60 *
			UOH	942,595 N		1,943,274 N
				3.00 *		3.00 *
			UOH	265,394 W		273,808 W
	INVESTMENT CAPITAL		AGS	386,000 C		
H. CULTURE AND RECREATION						
1.	UOH881 - AQUARIA			10.00 *		10.00 *
	OPERATING		UOH	475,110 A		483,053 A
2.	CCA701 - HAWAII PUBLIC BROADCASTING			37.00 *		46.00 *
	OPERATING		CCA	1,968,678 A		2,608,319 A
				1.00 *		1.00 *
			CCA	1,493,591 W		1,547,448 W
	INVESTMENT CAPITAL		AGS			1,877,000 C
			CCA	65,000 C		
3.	AGS881 - PERFORMING & VISUAL ARTS EVENTS			13.00 *		13.00 *
	OPERATING		AGS	3,902,112 A		6,747,192 A
			AGS	457,047 N		453,248 N
			AGS	15,000 R		15,000 R
4.	AGS818 - ETHNIC GROUP PRESENTATIONS					
	OPERATING		AGS	60,557 A		62,778 A
			AGS	7,500 B		7,500 B
5.	LNR804 - FOREST RECREATION			28.00 *		28.00 *
	OPERATING		LNR	708,521 A		786,822 A
			LNR	296,484 N		296,484 N
	INVESTMENT CAPITAL		LNR	498,000 C		84,000 C
6.	LNR805 - AQUATIC RECREATION			8.00 *		8.00 *
	OPERATING		LNR	181,171 A		346,651 A
			LNR	329,433 N		329,433 N
7.	LNR806 - HERITAGE & RECREATION PARKS			138.00 *		138.00 *
	OPERATING		LNR	4,211,692 A		4,716,529 A
	INVESTMENT CAPITAL		LNR	1,700,000 A		8,600,000 A
			LNR	7,965,000 C		7,315,000 C
8.	TRN801 - OCEAN-BASED RECREATION					
	OPERATING		TRN	267,896 A		17.00 *
				53.50 *		267,896 A
						54.50 *

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		INVESTMENT CAPITAL	TRN	4,552,796 B		4,984,823 B	
			TRN			2,465,000 C	
			TRN	1,845,000 D		2,075,000 D	
			TRN			1,431,000 N	
9.	AGS889 - SPECTATOR EVENTS & SHOWS - ALOHA STADIUM			37.00 *		37.00 *	
	OPERATING	AGS	2,523,747 B			2,616,845 B	
	INVESTMENT CAPITAL	AGS	3,050,000 C			2,730,000 C	
10.	LNR809 - GENERAL ADMIN FOR CULTURE & RECREATION			22.00 *		22.00 *	
	OPERATING	LNR	554,299 A			548,693 A	
	INVESTMENT CAPITAL	LNR	2,140,798 N			2,142,175 N	
		AGS				300,000 C	
		LNR	275,000 C			1,205,000 C	
		LNR				50,000 N	

I. PUBLIC SAFETY

1.	DOC410 - INTAKE SERVICE CENTERS			63.00 *		40.00 *	
	OPERATING	DOC	2,552,939 A			1,021,579 A	
2.	DOC401 - JUVENILE CORRECTIONAL FACILITIES			85.50 *		85.50 *	
	OPERATING	DOC	3,021,177 A			3,045,487 A	
3.	DOC402 - HALAWA CORRECTIONAL FACILITY			437.00 *		445.00 *	
	OPERATING	DOC	9,963,208 A			11,524,381 A	
	INVESTMENT CAPITAL	AGS	6,503,000 A				
		AGS	1,067,000 C				
4.	DOC403 - KULANI CORRECTIONAL FACILITY			76.33 *		77.83 *	
	OPERATING	DOC	2,873,847 A			3,116,721 A	
	INVESTMENT CAPITAL	AGS				352,000 C	
5.	DOC404 - WAIWAIA CORRECTIONAL FACILITY			48.50 *		52.00 *	
	OPERATING	DOC	2,050,383 A			2,275,339 A	
6.	DOC405 - HAWAII COMMUNITY CORRECTIONAL CENTER			40.50 *		50.50 *	
	OPERATING	DOC	1,168,465 A			1,367,487 A	
	INVESTMENT CAPITAL	AGS				835,000 C	
7.	DOC406 - MAUI COMMUNITY CORRECTIONAL CENTER			50.00 *		53.00 *	
	OPERATING	DOC	1,555,232 A			1,641,416 A	
	INVESTMENT CAPITAL	AGS	368,000 C			192,000 C	
8.	DOC407 - OAHU COMMUNITY CORRECTIONAL CENTER			610.10 *		600.10 *	
	OPERATING	DOC	21,433,620 A			20,369,111 A	
	INVESTMENT CAPITAL	AGS	850,000 C			4,755,000 C	
9.	DOC408 - KAUAI COMMUNITY CORRECTIONAL CENTER						

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				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		OPERATING	DOC	41.50 *		42.50 *	
				1,259,825 A		1,294,656 A	
10.	DOC409 - WOMEN'S COMMUNITY CORRECTIONAL CENTER				82.00 *		84.00 *
	OPERATING	DOC		2,798,729 A		2,945,222 A	
	INVESTMENT CAPITAL	AGS				1,573,000 C	
11.	DOC411 - ADULT PAROLE DETERMINIATIONS				2.00 *		2.00 *
	OPERATING	DOC		128,165 A		125,479 A	
12.	DOC413 - ADULT PAROLE SUPERVISION AND COUNSELING				24.00 *		24.00 *
	OPERATING	DOC		548,535 A		550,200 A	
13.	DOC414 - CRIMINAL INJURIES COMPENSATION				3.00 *		3.00 *
	OPERATING	DOC		111,283 A		111,060 A	
14.	DOC903 - GENERAL ADMINISTRATION				46.00 *		90.00 *
	OPERATING	DOC		2,114,277 A		4,564,223 A	
	INVESTMENT CAPITAL	AGS		90,000 C			
15.	ATG231 - STATE CRIMINAL JUSTICE INFO & IDENTIFICATION				27.00 *		31.00 *
	OPERATING	ATG		971,404 A		997,598 A	
16.	LNR810 - PREVENTION OF NATURAL DISASTERS				3.00 *		3.00 *
	OPERATING	LNR		127,630 A		627,464 A	
	INVESTMENT CAPITAL	LNR				525,000 C	
17.	DEF110 - AMELIORATION OF PHYSICAL DISASTERS				145.40 *		145.80 *
	OPERATING	DEF		6,244,319 A		6,268,737 A	
				6.10 *		7.70 *	
	INVESTMENT CAPITAL	DEF		1,620,489 N		1,648,387 N	
		AGS		1,145,000 C		1,215,000 C	
		AGS		1,120,000 N		2,920,000 N	

J. INDIVIDUAL RIGHTS

1. AGR810 - TESTING & CERTIFICATION OF CONSUMER GOODS

OPERATING	AGR	26.25 *	26.25 *
		644,063 A	656,642 A
	AGR	26.25 *	26.25 *
		837,933 N	840,412 N
2. CCA103 - CONSUMER ADVOCATE FOR COMM, UTIL & TRANS SVC

OPERATING	CCA	20.00 *	20.00 *
		1,042,108 A	1,061,717 A
		4.00 *	4.00 *
	CCA	301,125 X	291,463 X
3. CCA104 - FINANCIAL INSTITUTION SERVICES

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		OPERATING	CCA	27.00 *		27.00 *	
4.	CCA106 - INSURANCE SERVICES			923,813 A		921,005 A	
		OPERATING	CCA	31.00 *		31.00 *	
				1,401,389 A		1,408,757 A	
5.	CCA105 - PROFESSIONAL, VOCATIONAL & PERSONAL SVCS			43.00 *		43.00 *	
		OPERATING	CCA	1,575,225 A		1,598,390 A	
6.	BUF901 - TRANSPORTATION, COMMUNICATIONS, & UTILITIES			26.00 *		26.00 *	
		OPERATING	BUF	910,890 A		952,215 A	
7.	CCA111 - BUSINESS REGISTRATION			32.00 *		32.00 *	
		OPERATING	CCA	761,305 A		845,332 A	
			CCA	286,697 B		8.00 *	
						289,632 B	
8.	AGR812 - MEASUREMENT STANDARDS			21.00 *		22.00 *	
		OPERATING	AGR	624,775 A		607,623 A	
		INVESTMENT CAPITAL	AGS	63,000 C			
9.	CCA110 - OFFC OF CONSUMER PROT - ADV & TERMS OF SALE			25.00 *		25.00 *	
		OPERATING	CCA	753,984 A		743,757 A	
10.	CCA191 - GENERAL SUPPORT-PROTECTION OF THE CONSUMER			55.00 *		58.00 *	
		OPERATING	CCA	1,891,790 A		1,966,058 A	
			CCA	1,184,408 B		1,184,408 B	
11.	BUF151 - LEGAL ASSISTANCE IN CRIMINAL ACTIONS			72.00 *		72.00 *	
		OPERATING	BUF	3,724,766 A		4,846,449 A	
12.	LNR111 - CONVEYANCES AND RECORDINGS			44.00 *		57.00 *	
		OPERATING	LNR	1,042,108 A		1,161,049 A	
13.	SOC888 - COMMISSION ON THE STATUS OF WOMEN			1.00 *		1.00 *	
		OPERATING	SOC	43,645 A		51,431 A	
K. GOVERNMENT-WIDE SUPPORT							
1.	GOV100 - OFFICE OF THE GOVERNOR			43.00 *		43.00 *	
		OPERATING	GOV	2,992,700 A		2,798,234 A	
			GOV	263,420 R			
		INVESTMENT CAPITAL	GOV	3,000,000 C		3,000,000 C	
2.	LTG100 - OFFICE OF THE LIEUTENANT GOVERNOR			21.00 *		21.00 *	
		OPERATING	LTG	2,368,403 A		3,741,899 A	
3.	BUF101 - BUF - PRGM PLANNG, ANALYSIS & BUDGETING						

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				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89
		OPERATING	BUF	65.00 *		69.00 *
				49,901,760 A		53,232,386 A
4.	BED103 - LAND USE AND COASTAL MANAGEMENT					
	OPERATING		BED	14.00 *		14.00 *
			BED	871,597 A		1,276,951 A
			BED	558,900 N		379,400 N
5.	GOV103 - STATEWIDE PLAN AND COORDINATION					
	OPERATING		GOV	34.00 *		39.00 *
			GOV	1,464,189 A		2,688,751 A
	INVESTMENT CAPITAL		AGS	1,410 B		1,465 B
						2,500,000 C
6.	BED104 - HAWAII COMMUNITY DEVELOPMENT AUTHORITY					
	OPERATING		BED	5.00 *		5.00 *
	INVESTMENT CAPITAL		BED	234,747 A		237,011 A
			BED	3,640,000 C		13,540,000 A
						16,740,000 C
7.	GOV102 - GOV - OTH POLICY DEVELOPMENT & COORDINATION					
	OPERATING		GOV	11.00 *		11.00 *
				1,898,944 A		2,793,487 A
8.	TAX102 - INCOME ASSESSMENT AND AUDIT					
	OPERATING		TAX	119.00 *		123.00 *
				2,971,169 A		2,968,938 A
9.	TAX103 - TAX COLLECTIONS ENFORCEMENT					
	OPERATING		TAX	93.00 *		97.00 *
				2,093,551 A		2,498,995 A
10.	TAX105 - TAX SERVICES & PROCESSING					
	OPERATING		TAX	93.00 *		94.00 *
				3,077,667 A		3,153,163 A
11.	TAX107 - SUPPORTING SERVICES - REVENUE COLLECTION					
	OPERATING		TAX	49.00 *		57.00 *
				2,734,334 A		4,247,178 A
12.	AGS101 - ACCT SYSTEM DEVELOPMENT & MAINTENANCE					
	OPERATING		AGS	12.00 *		12.00 *
				350,104 A		700,686 A
13.	AGS102 - EXPENDITURE EXAMINATION					
	OPERATING		AGS	23.00 *		23.00 *
				802,970 A		813,861 A
14.	AGS103 - RECORDING AND REPORTING					
	OPERATING		AGS	15.00 *		15.00 *
				530,073 A		517,238 A
15.	AGS104 - INTERNAL POST AUDIT					
	OPERATING		AGS	19.00 *		19.00 *
				1,117,077 A		1,140,630 A
16.	BUFI10 - CASH AND DEBT MANAGEMENT					

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				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
				18.00 *		18.00 *	
		OPERATING	BUF	256,385,182 A		268,157,383 A	
			BUF	16,700 B		16,710 B	
			BUF	5,000 U		5,000 U	
17.	ATG100 - LEGAL SERVICES						
				141.00 *		179.56 *	
		OPERATING	ATG	10,534,856 A		10,909,965 A	
				9.00 *		14.44 *	
			ATG	1,700,265 N		1,879,388 N	
				30.00 *		30.00 *	
		INVESTMENT CAPITAL	ATG	1,861,803 U		1,854,017 U	
			ATG	50,000 C			
18.	BUF131 - ELECTRONIC DATA PROCESSING SERVICES						
				235.00 *		248.00 *	
		OPERATING	BUF	13,165,203 A		17,343,047 A	
				25.00 *		36.00 *	
			BUF	1,860,887 U		1,995,680 U	
		INVESTMENT CAPITAL	AGS	200,000 C			
19.	AGS111 - RECORDS MANAGEMENT						
				24.00 *		26.00 *	
		OPERATING	AGS	541,181 A		567,870 A	
20.	PER102 - WORK FORCE ATTR, SELECT, CLASS, & EFFECT						
				104.00 *		124.00 *	
		OPERATING	PER	12,372,282 A		13,714,020 A	
				B		B	
			PER	783,838 U		783,838 U	
21.	PER191 - SUPPORTING SERVICES-PERSONNEL SERVICES						
				11.00 *		12.00 *	
		OPERATING	PER	562,351 A		637,266 A	
22.	BUF141 - RETIREMENT						
				28.18 *		28.18 *	
		OPERATING	BUF	128,696,320 A		74,344,272 A	
				9.82 *		9.82 *	
			BUF	532,187 S		439,137 S	
23.	BUF142 - GROUP LIFE INSURNCE, MED, HOSP & DNTL BNFTS						
				13.00 *		13.00 *	
		OPERATING	BUF	563,057 A		573,828 A	
24.	LNR101 - PUBLIC LANDS MANAGEMENT						
				36.00 *		36.00 *	
		OPERATING	LNR	915,367 A		920,042 A	
		INVESTMENT CAPITAL	LNR	41,000,000 A		20,000,000 A	
			LNR	680,000 C			
25.	AGS203 - RISK MANAGEMENT						
				3.00 *		4.00 *	
		OPERATING	AGS	5,614,574 A		5,902,713 A	
			AGS	110,240 U		114,760 U	
26.	AGS211 - LAND SURVEY						
				28.00 *		28.00 *	
		OPERATING	AGS	747,156 A		695,220 A	
27.	AGS221 - CONSTRUCTION						

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		OPERATING	AGS	20.00 *		20.00 *	
		INVESTMENT CAPITAL	AGS	619,543 A		1,119,842 A	
			AGS	35,095,000 A		A	
			AGS	4,817,000 C		10,234,000 C	
28.	AGS231 - CUSTODIAL SERVICES						
		OPERATING	AGS	153.50 *		158.50 *	
			AGS	7,067,528 A		7,608,700 A	
				330,515 U		345,437 U	
29.	AGS232 - GROUNDS MAINTENANCE						
		OPERATING	AGS	38.00 *		38.00 *	
				858,908 A		868,505 A	
30.	AGS233 - BUILDING REPAIRS AND ALTERATIONS						
		OPERATING	AGS	26.00 *		26.00 *	
				6,226,478 A		14,284,826 A	
31.	AGS240 - CENTRAL PURCHASING						
		OPERATING	AGS	16.00 *		16.00 *	
			AGS	351,440 A		511,923 A	
				28,350 W		29,400 W	
32.	AGS244 - SURPLUS PROPERTY MANAGEMENT						
		OPERATING	AGS	5.00 *		5.00 *	
				154,839 W		155,770 W	
33.	AGS251 - MOTOR POOL						
		OPERATING	AGS	8.50 *		10.00 *	
				575,308 W		613,644 W	
34.	AGS252 - PARKING CONTROL						
		OPERATING	AGS	12.50 *		14.00 *	
				1,492,738 W		1,763,543 W	
35.	AGS263 - COMMUNICATION						
36.	BUF161 - COMMUNICATION						
		OPERATING	BUF	15.00 *		15.00 *	
			BUF	2,688,973 A		4,885,042 A	
				1,776,485 U		1,972,142 U	
37.	ATG801 - CAPITOL BUILDING SECURITY						
		OPERATING	ATG	47.00 *		47.00 *	
		INVESTMENT CAPITAL	AGS	1,096,134 A		1,060,526 A	
				83,000 C			
38.	AGS901 - GENRL ADM SVCS - ACCOUNTING & GENERAL SVCS						
		OPERATING	AGS	42.00 *		45.00 *	
				1,175,763 A		1,193,321 A	
39.	SUB101 - GRANTS-IN-AID TO COUNTIES						
		OPERATING	SUB	33,041,551 A		39,447,551 A	
40.	SUB201 - CITY AND COUNTY OF HONOLULU						
		OPERATING	SUB			4,036,600 A	
		INVESTMENT CAPITAL	CCH	850,000 C			
41.	SUB301 - COUNTY OF HAWAII						

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PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1987-88	M O F	FISCAL YEAR 1988-89	M O F
		INVESTMENT CAPITAL	COH			6,000,000	C
42.	SUB401 - COUNTY OF MAUI INVESTMENT CAPITAL		COM COM		600,000	A 550,000	C
43.	SUB501 - COUNTY OF KAUAI INVESTMENT CAPITAL		COK COK		180,000	A	
							2,972,000 C

SECTION 5. Part III, Act 216, Session Laws of Hawaii 1987, is amended:

(1) By amending Section 4 to read as follows:

"SECTION 4. Provided that of the general fund appropriation for commerce and industry (BED 102), the sum of \$1,500,000 in fiscal year 1987-88 and \$1,500,000 in fiscal year 1988-89 shall be provided to the Pacific international center for high technology research; provided further that the department of business and economic development shall expedite the transfer of funds; provided further that the funds shall be used for independent research in high technology and alternate energy utilization; provided further that of the amount in fiscal year 1987-88 and fiscal year 1988-89, \$500,000 shall be used to continue the Sanki/PICHTR project; provided further that the Pacific international center for high technology research shall submit an expenditure plan/report to the legislature twenty days before the convening of the 1988 and the 1989 regular session."

(2) By amending Section 7 to read as follows:

"SECTION 7. Provided that of the general fund appropriation for commerce and industry (BED 102), the sum of \$217,392 in fiscal year 1987-88 and \$375,000 in fiscal year 1988-89 shall be used for management, marketing, and promotion of the Hawaii ocean science and technology park, to include the pre-incubator facility."

(3) By amending Section 12 to read as follows:

"SECTION 12. Provided that of the general fund appropriation for commerce and industry (BED 102), the sum of \$4,382,167 in fiscal year 1987-88 and \$4,045,542 in fiscal year 1988-89 shall be expended by the department of business and economic development (DBED) for marketing, promotion and industry development; provided further that not more than twenty five per cent of the preceding sums shall be available prior to the approval of DBED's strategic marketing plan by the Governor, which shall include:

1. A statement of the goals and objectives for this marketing, promotion and development program in such targeted areas as product promotion and development, film production, ocean and marine resources, telecommunications and high technology, international business and development, and any other area designated by DBED;

2. Action plans for the implementation and management of this program;
3. Measures of effectiveness, in quantifiable terms such as:
 - a. Projected number of new businesses statewide and countywide in the targeted industries;
 - b. Total revenues to be generated by the targeted industry;
 - c. Total number of employees projected for hire by that industry;
 - d. Projected increases in exports to foreign countries, and increased trade, investment and business contacts in Hawaii;
 - e. Projected requirements for new industry training and specialized educational programs to prepare the State's labor force for entry into such new industries;
 - f. Business incentives and developmental programs required to attract such new businesses to the State;
 - g. Other measures of effectiveness as deemed appropriate by DBED;

Provided further that upon its completion, the strategic marketing plan shall be submitted to the President of the Senate and the Speaker of the House of Representatives; provided further that DBED is authorized to establish and fill eleven positions, exempt from the provisions of Chapters 76 and 77, Hawaii Revised Statutes, to effectively establish and manage this program; provided further that DBED shall submit quarterly reports to the Governor on the progress and effectiveness of the programs funded here and to identify any major problem areas; provided further that supplemental funding for the DBED in the second year shall be contingent on the effective achievement of this program's goals and objectives; provided further that of the above stated appropriation, the sum of \$50,000 in fiscal year 1987-88 and \$50,000 in fiscal year 1988-89 shall be used for seafood promotion; the sum of \$40,000 in fiscal year 1987-88 shall be used for the small business procurement assistance program; provided further that the sum of \$350,000 in fiscal year 1987-88 and \$350,000 in fiscal year 1988-89 shall be expended by the business development branch to contract with the economic development boards or corporations of the counties for the non-personnel promotion of economic development in Hawaii."

(4) By adding a new section to read as follows:

"SECTION 13A. Provided that of the general fund appropriation for commerce and industry (BED 102), the sum of \$250,000 in fiscal year 1988-89 shall be used to develop a plan to establish an international business center; provided further that the plan shall include but not be limited to identification of services, an assessment of demand, development of a financial plan, analysis of physical facility requirements and site criteria, and an implementation schedule; provided further that the department of business and economic development shall coordinate activities relating to the establishment of an international business center with the office of state planning."

(5) By adding a new section to read as follows:

"SECTION 13B. Provided that of the general fund appropriation for commerce and industry (BED 102), the sum of \$95,000 in fiscal year 1988-89 shall be used for a child care business pilot project; provided further that this project shall be conducted in cooperation with the office of children and youth; provided further that the office of children and youth shall be the lead/coordinating agency."

(6) By adding a new section to read as follows:

"SECTION 13C. Provided that of the general fund appropriation for commerce and industry (BED 102), the sum of \$1,539,230 in fiscal year 1988-89 shall

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be used to implement items relating to a rocket launching site and space-related activities; provided further that these items shall include: (1) launch site EIS, master plan, permits, soil studies, and impact studies; (2) pacific center for space technology; (3) theme park and education center feasibility study and conceptual plan; (4) office of space industry; provided further that a report shall be submitted to the legislature which shall include but not be limited to: (a) an expenditure and projected expenditure report; (b) a summary of activites contemplated, underway, and completed; (c) an updated assessment as to Hawaii's chances of establishing a successful launch facility in light of worldwide competition; provided further that this report shall be submitted to the legislature twenty days prior to the convening of the 1989 regular session."

(7) By adding a new section to read as follows:

"SECTION 13D. Provided that of the general fund appropriation for commerce and industry (BED 102), the sum of \$200,000 in fiscal year 1987-88 and \$2,550,000 in fiscal year 1988-89 shall be used for the American Train project."

(8) By adding a new section to read as follows:

"SECTION 13E. Provided that of the general fund appropriation for commerce and industry (BED 102), the sum of \$35,000 in fiscal year 1988-89 shall be used for a coordinator to develop a plan for job creation in non-metropolitan communities and rural vocational education for a technological future."

(9) By adding a new section to read as follows:

"SECTION 13F. Provided that of the general fund appropriation for commerce and industry (BED 102), the sum of \$45,000 in fiscal year 1988-89 shall be used for a coordinator of arts, crafts, fashion, and other like locally produced products suitable for export; provided further the coordinator shall assist entrepreneurs and the industry toward greater marketing effectiveness for their products."

(10) By adding a new section to read as follows:

"SECTION 13G. Provided that of the general fund appropriation for commerce and industry (BED 102), the sum of \$10,000 in fiscal year 1988-89 shall be used to hold a national cooking contest utilizing Hawaiian grown or harvested products."

(11) By adding a new section to read as follows:

"SECTION 13H. Provided that of the general fund appropriation for commerce and industry (BED 102), the sum of \$25,000 in fiscal year 1988-89 shall be used to fund the international symposium on man in the sea to be held in Honolulu; provided further that the appropriation for the international symposium on man in the sea shall not be used to make any expenditure for food or beverage."

(12) By adding a new section to read as follows:

"SECTION 13I. Provided that of the general fund appropriation for commerce and industry (BED 102), the sum of \$100,000 in FY 1988-89 shall be used by the Film Industry branch to cover the state's share of net operating costs of the film facility located at Diamond Head; provided further that any funds not used towards the stated purpose shall lapse into general funds."

(13) By adding a new section to read as follows:

"SECTION 13J. Provided that of the general fund appropriation for commerce and industry (BED 102), the sum of \$250,000 in fiscal year 1988-89 shall be used as a grant-in-aid to the Main Street Task Force; provided further that the DBED shall provide adequate oversight to ensure the effective use of state funds, and that the oversight responsibilities shall include the review and approval of the following items prior to the release of funds to the Main Street Task Force:

1. A clear statement of a statewide program goals and objectives;
2. A clear statement of the program goals and objectives to be pursued in each county and the relationship to statewide goals and objectives;
3. Adequate criteria to evaluate the effectiveness of the program in each of the major target areas; and
4. An expenditure plan for the Main Street Task Force program for the fiscal year 1988-89.

Provided further that the Main Street Task Force shall provide to the legislature, twenty days before the convening of the 1989 regular session, a five-year management and financial plan that shall reflect the replacement of all state general funds with non-state funds before the end of the five-year plan."

(14) By amending Section 14 to read as follows:

"SECTION 14. Provided that of the general fund appropriation for the state tourism office (BED 113), \$8,750,000 in fiscal year 1987-88 and \$6,452,500 in fiscal year 1988-89 shall be expended by the department of business and economic development (DBED) for world-wide tourism marketing, advertising and promotional activities; provided that in expending these funds DBED shall select target markets based on the most recent market information about market conditions, new markets, and competition; provided further that not more than twenty-five per cent of the preceding sums shall be available prior to the approval of DBED's strategic marketing plan by the Governor, which shall include:

1. A statement of the goals and objectives of the respective tourism marketing and promotion programs administered by the DBED and the Hawaii visitors bureau (HVB) in each priority target area within the primary tourist markets, secondary tourist markets and other market areas;
2. Action plans for the implementation and management of these programs;
3. Measures of effectiveness, in quantifiable terms such as:
 - a. the level of visitor arrivals by specific target areas;
 - b. changes in the length of stay of visitors by specific target areas;
 - c. the amount of visitor expenditures;
 - d. the growth in travel to the neighbor islands;
 - e. the level of visitor satisfaction;
 - f. the growth of visitor arrivals from new travel markets;
 - g. other measures of effectiveness as deemed appropriate by the DBED;

Provided further that the DBED shall submit copies of the strategic marketing plan to the President of the Senate and the Speaker of the House of Representatives; provided further that the department of business and economic development is authorized to establish and fill five temporary positions exempt from the provisions of Chapters 76 and 77, HRS, to assist the staff of the state tourism office (BED 113) in promoting tourism; provided further that the DBED shall submit quarterly

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reports to the Governor on the progress and effectiveness of the programs funded here, and to identify any major problem areas; provided further that supplemental funding for the DBED in the second year shall be contingent on the effective achievement of this program's goals and objectives.

Provided further that of the above stated appropriation for state tourism office (BED 113), the sum of \$600,000 in fiscal year 1987-88 shall be used for the production of a public broadcasting program in the Sullivan's travel series; provided further that \$100,000 in fiscal year 1987-88 shall be used for the production of the Hawaiian rainbow series; provided further that \$50,000 in fiscal year 1987-88 shall be used for the third annual festival of the Pacific.

Provided further that \$100,000 in fiscal year 1987-88 and \$100,000 in fiscal year 1988-89 shall be used to advertise and promote Molokai as a visitor destination; provided further that \$100,000 in fiscal year 1987-88 and \$100,000 in fiscal year 1988-89 shall be used to advertise and promote Hilo as a visitor destination; provided further that \$100,000 in fiscal year 1988-89 shall be used to advertise and promote West Hawaii as visitor destination; provided further that \$100,000 in fiscal year 1988-89 shall be used to advertise and promote Maui as visitor destination; provided further that \$100,000 in fiscal year 1988-89 shall be used to advertise and promote Kauai as visitor destination; provided further that DBED may expend general funds appropriated to the state tourism office (BED 113), for changing market conditions which may be required to stimulate the tourism industry in the event of serious economic downturns; provided further that general fund expenditures for changing market conditions shall not exceed \$250,000 in fiscal year 1988-89 and that funds for changing market conditions shall not be incorporated into the Hawaii visitors bureau contract; provided further that DBED shall submit a report to each session of the legislature describing the economic conditions which necessitate any expenditures for this purpose and identification of the source and the application of funds used for this purpose; provided further that the sum of \$375,000 in fiscal year 1988-89 shall be expended for computer hardware, software, telecommunications equipment and computer consultant services for the Hawaii visitors bureau as follows:

Honolulu Office	\$100,000
Hawaii Chapter Office	\$25,000
Kauai Chapter Office	\$25,000
Maui Chapter Office	\$25,000
San Francisco Office	\$25,000
Los Angeles Office	\$25,000
Chicago Office	\$25,000
Washington, D.C.	\$25,000

Provided further the sum of \$65,000 in fiscal year 1988-89 shall be expended to establish a permanent position for a special assistant for tourism industry relations and a secretary; provided further that the sum of \$100,000 in fiscal year 1988-89 shall be expended by the Waikiki beach operators association to promote Waikiki as a visitor destination; provided further that the sum of \$9,939,500 in fiscal year 1988-89 shall be expended for a contract with the Hawaii visitors bureau for worldwide tourism marketing, advertising and promotion; provided further that the Hawaii visitors bureau's marketing efforts shall be directed towards the state tourism program's base markets, developing markets, and the meetings and convention markets; provided further that the state tourism office's marketing program shall be limited to new markets; provided further that DBED shall submit a report to the legislature to include a statement regarding the progress and effectiveness of each project and promotion delineating the measures of effectiveness utilized; provided further that this report shall be submitted to the legislature twenty days prior to the convening of the 1989 regular session."

(15) By adding a new section to read as follows:

“SECTION 17A. Provided that of the general fund appropriation for the state tourism office (BED 113), the sum of \$500,000 in fiscal year 1988-89 shall be used for the promotion of Hawaiian culture and arts; provided further that of the appropriated sum, \$200,000 shall be used for the development of promotional tour programs which will expose potential tourist markets to Hawaiian culture, arts, and experiences, and inform them about how to find these experiences on vacation and trips to Hawaii; provided further that these productions shall consist of high quality theatrical productions featuring Hawaii’s ethnic and cultural characteristics; provided further that the department of business and economic development shall consult with the Office of Hawaiian Affairs on the development of this project; provided further that the department of business and economic development shall submit a report of its findings and recommendations to the legislature twenty days prior to the convening of the 1989 regular session.”

(16) By adding a new section to read as follows:

“SECTION 17B. Provided that of the general fund appropriation for the state tourism office (BED 113), the sum of \$1,265,000 in fiscal year 1988-89 shall be used for the 1989 exposition in Fukuoka, Japan.”

(17) By adding a new section to read as follows

“SECTION 17C. Provided that of the general fund appropriation for the state tourism office (BED 113), the sum of \$385,000 in fiscal year 1988-89 shall be used for grants-in-aid.”

(18) By adding a new section to read as follows:

“SECTION 17D. Provided that the legislative auditor shall conduct a financial and management audit of the state tourism office (BED 113) which shall include, but not be limited to, a review of its compliance with the general appropriations act of 1987 and the management controls in place to administer its contracts; provided further that the auditor shall also conduct a review and evaluation of the department’s efforts in implementing the recommendations of the auditor’s 1987 management audit of the Hawaii visitors bureau and the State’s tourism program; and provided further that the auditor shall submit a report on findings and recommendations to the legislature twenty days prior to the convening of the 1989 regular session.”

(19) By amending Section 18 to read as follows:

“SECTION 18. Provided that the department of agriculture by the end of each calendar month shall conduct an independent audit with Federal Milk Marketing Order specifications of the previous calendar month on the utilization of milk received by the milk processors in relation to the volume of production by the processor; provided further that of the general fund appropriation for price and production controls for dairy products (AGR 103), the sum of \$72,000 in fiscal year 1988-89 shall be used to conduct the monthly milk audit; provided further that the department of agriculture shall submit a report of its findings to the board of agriculture and to producers and processors within the Honolulu and Hawaii milksheds upon completion of its audit on a monthly basis; provided further that the department of agriculture shall submit a report of its findings to the legislature twenty days

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before the beginning of the 1988 and 1989 regular session for the calendar years 1987 and 1988, respectively.”

(20) By amending Section 19 to read as follows:

“SECTION 19. Provided that of the general fund appropriation for plant pest control (AGR 122), the sum of \$95,028 in fiscal year 1987-88 and \$123,100 in fiscal year 1988-89 shall be used for the containment of gorse infestation on the islands of Hawaii and Maui.”

(21) By amending Section 23 to read as follows:

“SECTION 23. Provided that of the general fund appropriation for distribution systems improvement for agriculture (AGR 151), the sum of \$200,000 in fiscal year 1987-88 and \$300,000 in fiscal year 1988-89 shall be used for the promotion of pineapples; provided further that of the sum appropriated for the fiscal year 1988-89, \$100,000 shall be used to expand the promotion of fresh pineapple to eleven additional states east of the eleven western states currently in the existing program; provided further that no funds shall be made available unless matched on a dollar-for-dollar basis by private contributions.”

(22) By amending Section 26 to read as follows:

“SECTION 26. Provided that of the general fund appropriation for distribution systems improvement for agriculture (AGR 151), the sum of \$410,000 in fiscal year 1987-88 and \$120,000 in fiscal year 1988-89 shall be used for the promotion of diversified agricultural commodities.”

(23) By adding a new section to read as follows:

“SECTION 27A. Provided that of the general fund appropriation for distribution systems improvement for agriculture (AGR 151), the sum of \$37,500 in fiscal year 1988-89 shall be used for the advertising and promotion of milk produced in Hawaii; provided further that no funds shall be made available under this Act unless matched on a dollar-for-dollar basis by the fresh milk industry of Hawaii.”

(24) By adding a new section to read as follows:

“SECTION 27B. Provided that of the general fund appropriation for distribution systems improvement for agriculture (AGR 151), the sum of \$100,000 in fiscal year 1988-89 shall be used for the promotion of Hawaii-grown coffee; provided further that no funds shall be made available under this Act unless matched on a dollar-for-dollar basis by private contributions.”

(25) By adding a new section to read as follows:

“SECTION 27C. Provided that of the general fund appropriation for distribution systems improvement for agriculture (AGR 151), the sum of \$50,000 in fiscal year 1988-89 shall be used for the purchase and installation of an ice machine for crop growers at Waimea, county of Hawaii, to be located at the Kamuela vacuum cooling plant.”

(26) By adding a new section to read as follows:

“SECTION 27D. Provided that of the general fund appropriation for distribution systems improvement for agriculture (AGR 151), the sum of \$200,000 in

fiscal year 1988-89 shall be used for the purchase and installation of a forced air cooler, ice machine, walk in reefer, fuel tanks, and the conversion of the current stairway to a loading ramp at the Kula vacuum cooling plant.”

(27) By amending Section 30 to read as follows:

“SECTION 30. Provided that of the general fund appropriation for commercial fishery and aquaculture (LNR 153), the sum of \$47,000 in fiscal year 1987-88 and \$72,500 in fiscal year 1988-89 shall be used for stock rearing and feed research of mahimahi.”

(28) By adding a new section to read as follows:

“SECTION 34A. Provided that of the general fund appropriation for energy development and management (BED 120), the sum of \$400,000 in fiscal year 1988-89 shall be used for alternate energy demonstration and commercialization projects; provided further that these projects shall include: (1) alternate energy environmental and technical assessments; (2) alternate transportation fuel studies and demonstrations, to include methanol, ethanol, and hydrogen fuels; (3) otec impact surveys and studies; (4) wind-utility interface and energy storage; (5) fuel-cell studies and surveys; and (6) alternate energy education and information, surveys, workshops, public meetings, and publications; provided further that the department of business and economic development shall submit a progress report to include an expenditure report for each project undertaken and a summary of the work achieved under each project; provided further that this report shall be submitted to the legislature twenty days prior to the convening of the 1989 regular session.”

(29) By adding a new section to read as follows:

“SECTION 34B. Provided that of the general fund appropriation for energy development and management (BED 120), the sum of \$50,000 in fiscal year 1988-89 shall be used to develop the Hawaii pacific center for renewable energy.”

(30) By adding a new section to read as follows:

“SECTION 34C. Provided that of the general fund appropriation for energy development and management (BED 120), the sum of \$50,000 in fiscal year 1988-89 shall be used to develop a wind energy system on Maui.”

(31) By adding a new section to read as follows:

“SECTION 34D. Provided that of the general fund appropriation for energy development and management (BED 120), the sum of \$200,000 in fiscal year 1988-89 shall be used to develop a cooperative energy research program between the Hawaii natural energy institute of the university of Hawaii and the people’s republic of China; provided further that the department of business and economic development shall submit a progress report to the legislature twenty days prior to the convening of the 1989 regular session.”

(32) By adding a new section to read as follows:

“SECTION 34E. Provided that of the general fund appropriation for water development and irrigation services (LNR 141), the sum of \$300,000 in fiscal year 1988-89 shall be expended for the development of water resources on Oahu; pro-

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vided further that the department of land and natural resources shall submit a progress report to the legislature twenty days prior to the convening of the 1989 regular session.”

(33) By adding a new section to read as follows:

“SECTION 35A. Provided that of the general fund appropriation for employment and training programs (LBR 131), the sum of \$250,000 in fiscal year 1988-89 shall be used for operation of the State’s new industry training program; provided further that the department shall submit a status report to the legislature twenty days prior to the convening of the 1989 regular session; provided further that the status report shall include, but not be limited to: program objectives and activities; a detailed breakdown of expenditures for fiscal year 1987-88, the first half of fiscal year 1988-89, and estimated expenditures for the second half of fiscal year 1988-89; program measures of effectiveness; a listing of private firms participating in the program; and a listing of the number of workers served, type of training received, and actual number of workers placed in private firms.”

(34) By adding a new section to read as follows:

“SECTION 35B. Provided that of the general fund appropriation for employment and training programs, (LBR 131), the sum of \$100,000 in fiscal year 1988-89 shall be used to implement a counseling, job training, and placement program for unemployed non-custodial parents identified by the child support enforcement agency within the department of the attorney general as being economically unable to pay child support; provided further that the department shall submit a status report to the legislature twenty days prior to the convening of the 1989 regular session; provided further that the status report shall include, but not be limited to: program objectives and activities; a detailed breakdown of expenditures for the first half of fiscal year 1988-89 and estimated expenditures for the second half of fiscal year 1988-89; program measures of effectiveness; the number of unemployed fathers served; type of training received; and the actual number of participants placed in private firms.”

(35) By adding a new section to read as follows:

“SECTION 35C. Provided that of the general fund appropriation for employment and training programs (LBR 131), the sum of \$10,000 in fiscal year 1988-89 shall be used to develop social service delivery models to address the needs of American Samoans in Hawaii; provided further that no funds shall be made available unless the sum of \$50,000 in matching funds is granted by the Administration for Native Americans for this purpose.”

(36) By adding a new section to read as follows:

“SECTION 35D. Provided that the department of labor and industrial relations shall submit a status report on the state dislocated worker program to the legislature twenty days prior to the convening of the 1989 regular session; provided further that the status report shall include, but not be limited to: program objectives and activities; program measures of effectiveness; identification of any and all covered establishments subject to Act 377, Session Laws of Hawaii 1987, due to closing, partial closing, or relocation; the number of employees affected by such actions; and the number of employees referred to federally funded employment and training programs.”

(37) By adding a new section to read as follows:

“SECTION 36A. Provided that of the general fund appropriation for transition centers (LBR 136), the sum of \$62,165 in fiscal year 1988-89 shall be used to establish two transition centers in targeted high growth areas.”

(38) By adding a new section to read as follows:

“SECTION 36B. Provided that of the general fund appropriation for transition centers (LBR 136), the sum of \$25,000 in fiscal year 1988-89 shall be used for a resource counselor to pilot a project for transitional services to special education students; provided further that the department shall submit a status report to the legislature twenty days prior to the convening of the 1989 regular session; provided further that the status report shall include, but not be limited to: program objectives and activities; a detailed breakdown of expenditures for the first half of fiscal year 1988-89 and estimated expenditures for the second half of fiscal year 1988-89; program measures of effectiveness; the number of students eligible for the program; the number of participants served; and a description of services provided that differ from mainstream activities.”

(39) By amending Section 37 to read as follows:

“SECTION 37. Provided that of the general fund appropriation for vocational rehabilitation (SOC 802), the sum of \$839,234 in fiscal year 1987-88 and \$983,620 in fiscal year 1988-89 shall be used for purchase of service; provided further that of the federal funds authorized, the sum of \$465,729 in fiscal year 1987-88 and \$498,339 in fiscal year 1988-89 shall be used for purchase of service; provided further that the sum of \$22,000 in fiscal year 1988-89 shall be used for grants-in-aid.”

(40) By amending Section 38 to read as follows:

“SECTION 38. Provided that of the general fund appropriation for office of community services (LBR 903), the sum of 0 in fiscal year 1987-88 and \$241,000 in fiscal year 1988-89 shall be used for grants-in-aid.”

(41) By amending Section 39 to read as follows:

“SECTION 39. Provided that of the general fund appropriation for office of community services (LBR 903), the sum of \$2,735,584 in fiscal year 1987-88 and \$3,440,363 in fiscal year 1988-89 shall be used for purchase of service; provided further that of the federal funds authorized, the sum of \$1,072,672 in fiscal year 1987-88 and \$1,072,672 in fiscal year 1988-89 shall be used for purchase of service.”

(42) By adding a new section to read as follows:

“SECTION 41A. Provided that of the special fund appropriation for Kauai highways and services (TRN 561) in fiscal year 1988-89, moneys shall be expended to resurface Kaumualii highway from mile post 28.5 to mile post 30.1.”

(43) By adding a new section to read as follows:

“SECTION 43A. Provided that of the highway special fund appropriation for land transportation facilities and services support (TRN 595), the sum of \$125,000

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shall be expended by the department of transportation in fiscal year 1988-89 for the planning and establishment of an anti-commuting telework center demonstration project; provided that no funds shall be made available unless private business provides matching funds for the purpose for which this sum is appropriated; provided further that the demonstration project shall be established for a twelve-month period, utilizing a minimum of eight state employees and eight employees from private industry; provided further that the department of transportation shall conduct promotional presentations and demonstrations to both the public and private sectors on the economic and social benefits of telework centers; provided further that the department shall prepare and submit a report on the status of the anti-commuting telework center demonstration project to the legislature no later than twenty days prior to the convening of the 1989 regular session.”

(44) By adding a new section to read as follows:

“SECTION 43B. Provided that of the special fund appropriation for overall program support for transportation facilities and services (TRN 995), the sum of \$210,000 in fiscal year 1988-89 shall be used for phase II of the intra-island ferry system; provided further that the study shall include an environmental assessment for the Ewa, West Beach, Waipahu, airport, and Waikiki terminals, soundings and dredging calculations of each of the harbors, market analysis, and traffic circulation studies; provided further that a progress report shall be submitted to the legislature no later than twenty days prior to the convening of the 1989 regular session.”

(45) By adding a new section to read as follows:

“SECTION 43C. Provided that of the special fund appropriation for overall program support for transportation facilities and services (TRN 995), the sum of \$1,085,000 in fiscal year 1988-89 shall be used to purchase a minicomputer system; provided further that the department of transportation shall complete the update of the departmental distributed information processing and information resource management (DIPIRM) plan and that the plan shall be reviewed and approved by the department of budget and finance in accordance with established policies and procedures prior to the expenditure of funds for the minicomputer system; provided further that the department shall develop specifications for the proposed minicomputer system that results in competitive bids from at least two different manufacturers; provided further that the department shall implement its departmental minicomputer system to efficiently protect its investment in existing microcomputers and to ensure that the existing systems will be utilized; provided further that the department shall develop an organization and personnel plan to support its program for computerization, including the management information system and office automation components; provided further that the department shall submit a report on the cost-effectiveness and benefit/cost of the intergraph system used by the department for highways design and engineering; provided further that the department shall clarify its programs and priorities in the areas of management information systems and office automation; and provided further that the department shall submit the updated departmental DIPIRM plan and a copy of the approval of the department of budget and finance to the legislature twenty days prior to the convening of the 1989 regular session.”

(46) By adding a new section to read as follows:

“SECTION 46A. Provided that 12 temporary positions for solids, liquids, gases and noise (HTH 840), shall be converted to permanent; provided further that

the draft and final applications for an authorized state hazardous waste program are filed with the Environmental Protection Agency; provided further that a progress report shall be submitted to the legislature twenty days prior to the convening of the 1989 regular session.”

(47) By adding a new section to read as follows:

“SECTION 46B. Provided that of the general fund appropriation for pesticides (AGR 846), the sum of \$250,000 in fiscal year 1988-89 shall be used for the development of a computerized system capable of determining mobility of pesticides and predicting the movement of specific pesticides and other chemicals through soil into ground water; provided further that the department of agriculture shall submit a report on the status of system development and the findings of related analysis to the legislature twenty days prior to the convening of the 1989 regular session.”

(48) By adding a new section to read as follows:

“SECTION 46C. Provided that of the general fund appropriation for pesticides (AGR 846), the sum of \$10,000 in fiscal year 1988-89 shall be expended to initiate monitoring of pesticide residues in soils near pesticide storage and mixing sites and to identify potential sources of ground water contamination; provided further that the department of agriculture shall submit a report on the status of monitoring efforts and sampling results to the legislature at least twenty days prior to the convening of the 1989 regular session.”

(49) By adding a new section to read as follows:

“SECTION 46D. Provided that of the general fund appropriation for aquatic resources (LNR 401), the sum of \$133,000 in fiscal year 1988-89 for a baseline study of the Hanalei River estuary and other north shore rivers on Kauai; provided further that the study shall include:

- (1) An inventory of available information on the ecology and resources of the area;
- (2) Development of methods to identify breeding streams and estuaries;
- (3) Reconnaissance surveys involving systematic observation of fish species;
- (4) Evaluation of methods for determining native Hawaiian stream fish population sizes; and
- (5) Comparative sediment testing of the Wainiha, Lumahai and Hanalei River estuaries and boat launching areas for analysis of the impact of heavy metals and organic toxic material, including photograph records and turbidity measurements.”

(50) By adding a new section to read as follows:

“SECTION 48A. Provided that of the general fund appropriation for policy development, coordination and analysis for natural physical environment (HTH 850), the sum of \$200,000 in fiscal year 1988-89 shall be expended to conduct a study to determine the feasibility of establishing a hazardous waste storage and treatment facility in Hawaii; provided further that the department of health shall submit a report containing the findings and recommendations of the study, as well as an accounting of all expenditures for the study to the legislature no later than January 1, 1990.”

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(51) By adding a new section to read as follows:

“SECTION 48B. Provided that of the general fund appropriation for policy development, coordination and analysis for natural physical environment (HTH 850), the sum of \$35,000 in fiscal year 1988-89 shall be used to develop an environmental education program.”

(52) By adding a new section to read as follows:

“SECTION 50A. Provided that of the general fund appropriation for natural physical environment (HTH 849), the sum of \$25,000 in fiscal year 1988-89 shall be used for a conference on litter control.”

(53) By adding a new section to read as follows:

“SECTION 54A. Provided that of the general fund appropriation for chronic diseases (HTH 151), the sum of \$50,000 in fiscal year 1988-89 shall be used for grants-in-aid.”

(54) By amending Section 58 to read as follows:

“SECTION 58. Provided that of the general fund appropriation for emergency medical services (HTH 170), the sum of \$178,611 in fiscal year 1987-88 and \$196,111 in fiscal year 1988-89 shall be used for purchase of service.”

(55) By adding a new section to read as follows:

“SECTION 58A. Provided that of the general fund appropriation for emergency medical services (HTH 170), the sum of \$1,100,000 in fiscal year 1988-89 shall be used to enhance emergency services in the Hawaii Kai, Ewa, Waialua, and West Maui areas.”

(56) By adding a new section to read as follows:

“SECTION 58B. Provided that of the general fund appropriation for emergency medical services (HTH 170), the sum of \$75,000 in fiscal year 1988-89 shall be expended for the planning of a trauma system.”

(57) By amending Section 59 to read as follows:

“SECTION 59. Provided that of the general fund appropriation for family planning (HTH 185), the sum of \$509,892 in fiscal year 1987-88 and \$593,798 in fiscal year 1988-89 shall be used for purchase of service; provided further that of the federal funds authorized, the sum of \$419,833 in fiscal year 1987-88 and \$414,974 in fiscal year 1988-89 shall be used for purchase of service.”

(58) By amending Section 62 to read as follows:

“SECTION 62. Provided that of the general fund appropriation for health care services (HTH 801), the sum of \$619,231 in fiscal year 1987-88 and \$872,706 in fiscal year 1988-89 shall be used for purchase of service; provided further that of the federal funds authorized, the sum of \$183,200 in fiscal year 1987-88 and \$183,200 in fiscal year 1988-89 shall be used for purchase of service.”

(59) By adding a new section to read as follows:

“SECTION 62A. Provided that of the special fund appropriation for Hilo hospital (HTH 211), the sum of \$25,000 in fiscal year 1988-89 shall be used to fund a temporary social worker position; provided further that this position shall primarily assist patients, who have no other financial means to qualify for medicaid assistance.”

(60) By adding a new section to read as follows:

“SECTION 62B. Provided that of the special fund appropriation for Hilo hospital (HTH 211), the sum of \$1,063,948 shall be lapsed into the general fund on August 1, 1988.”

(61) By adding a new section to read as follows:

“SECTION 62C. Provided that of the special fund appropriation for Kona hospital (HTH 215), the sum of \$25,000 in fiscal year 1988-89 shall be used to fund a temporary social worker position; provided further that this position shall primarily assist patients who have no other financial means to qualify for medicaid assistance.”

(62) By adding a new section to read as follows:

“SECTION 62D. Provided that of the special fund appropriation for Maui memorial hospital (HTH 221), the sum of \$25,000 in fiscal year 1988-89 shall be used to fund a temporary social worker position; provided further that this position shall assist patients who have no other financial means to qualify for medicaid assistance.”

(63) By adding a new section to read as follows:

“SECTION 62E. Provided that of the special fund appropriation for Maui memorial hospital (HTH 211), the sum of \$919,897 shall be lapsed into the general fund on August 1, 1988.”

(64) By adding a new section to read as follows:

“SECTION 63A. Provided that of the special fund appropriation for Kauai veterans memorial hospital (HTH 231), the sum of \$25,000 in fiscal year 1988-89 shall be used to fund a temporary social worker position; provided further that this position shall primarily assist patients who have no other financial means to qualify for medicaid assistance.”

(65) By adding a new section to read as follows:

“SECTION 63B. Provided that of the special fund appropriation for Leahi hospital (HTH 242), the sum of \$97,860 in fiscal year 1988-89 shall be expended to contract for the repainting of the Young building; provided further that any moneys in excess of the actual costs shall be lapsed into the general fund.”

(66) By adding a new section to read as follows:

“SECTION 63C. Provided that of the special fund appropriation for Leahi hospital (HTH 242), the sum of \$29,000 in fiscal year 1988-89 shall be used to purchase directional and identification signs for the Young building; provided further that any moneys in excess of the actual costs shall be lapsed into the general fund.”

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(67) By amending Section 65 to read as follows:

“SECTION 65. Provided that of the general fund appropriation for community based services for mental health (HTH 401), the sum of \$7,398,280 in fiscal year 1987-88 and \$8,942,403 in fiscal year 1988-89 shall be used for purchase of service; provided further that of the federal funds authorized, the sum of \$2,249,912 in fiscal year 1987-88 and \$2,250,392 in fiscal year 1988-89 shall be used for purchase of service; provided further that a financial and performance audit of expenditures on a sample basis of total expenditures for purchases of mental health services for fiscal year 1988-89 shall be performed by the legislative auditor; provided further that the legislative auditor shall submit the financial and performance audit to the legislature twenty days prior to the convening of the 1989 regular session.”

(68) By adding a new section to read as follows:

“SECTION 65A. Provided that of the general fund appropriation for community based services for mental health (HTH 401), the sum of \$700,000 in fiscal year 1988-89 shall be used to augment the Robert Wood Johnson foundation grant.”

(69) By adding a new section to read as follows:

“SECTION 65B. Provided that of the general fund appropriation for community based services for mental health (HTH 401), the sum of \$117,000 in fiscal year 1988-89 shall be used for grants-in-aid.”

(70) By adding a new section to read as follows:

“SECTION 65C. Provided that of the general fund appropriation for community based services for mental health (HTH 401), the sum of \$45,000 in fiscal year 1988-89 shall be used to fund a temporary administrative assistant position in the children’s mental health services branch.”

(71) By amending Section 66 to read as follows:

“SECTION 66. Provided that of the general fund appropriation for Hawaii state hospital (HTH 430), the sum of \$104,788 in fiscal year 1987-88 and \$121,118 in fiscal year 1988-89 shall be to provide an adolescent day program; provided further that the day treatment services shall be provided in the community.”

(72) By amending Section 69 to read as follows:

“SECTION 69. Provided that of the general fund appropriation for identification, evaluation, and treatment for developmentally disabled (HTH 500), the sum of \$1,377,875 in fiscal year 1987-88 and \$1,445,205 in fiscal year 1988-89 shall be used for purchase of service.”

(73) By amending Section 72 to read as follows:

“SECTION 72. Provided that of the general fund appropriation for community based services for developmentally disabled (HTH 501), the sum of \$2,740,890 in fiscal year 1987-88 and \$3,440,257 in fiscal year 1988-89 shall be used for purchase of service.”

(74) By adding a new section to read as follows:

"SECTION 72A. Provided that of the general fund appropriation for community based services for the developmentally disabled (HTH 501), the sum of \$2,073,200 in fiscal year 1988-89 shall be for medicaid matching funds to be used to continue and accelerate community placements of current and former Waimano training school and hospital residents into the small ICF/MR and other medicaid programs; provided further that the community based services for the developmentally disabled shall:

- (1) Continue to place residents in the small ICF/MR and other medicaid programs;
- (2) Utilize the appropriated funds for the deinstitutionalization of the Waimano training school and hospital residents; and
- (3) Use excess funds for additional prevention, treatment and support services for the developmentally disabled.

Provided further that a report on these actions and the deinstitutionalization progress and the usage of funds shall be made and submitted to the legislature twenty days prior to the convening of the 1989 regular session."

(75) By adding a new section to read as follows:

"SECTION 72B. Provided that of the general fund appropriation for community based services for the developmentally disabled (HTH 501), the sum of \$200,000 in fiscal year 1988-89 shall be used for a university-affiliated program for the training of people in the developmental disability area with emphasis on upgrading in-service personnel, and not for graduate student training and/or research."

(76) By amending Section 74 to read as follows:

"SECTION 74. Provided that of the general fund appropriation for Waimano training school and hospital (HTH 511), the sum of \$1,547,600 in fiscal year 1987-88 shall be for medicaid matching funds to be used to continue and accelerate community placements into the small ICF/MR and other medicaid programs; provided further that Waimano training school and hospital shall:

- (1) Continue to place residents in the small ICF/MR and other medicaid programs;
- (2) Consolidate the residential, medical and other program activities within the complex;
- (3) Take actions to decrease total expenses related to the reduced patient census at Waimano; and
- (4) Use excess funds resulting from the decrease in census for additional prevention, treatment and support services for the developmentally disabled.

Provided further that a report on these actions and the deinstitutionalization progress shall be made and submitted to the legislature twenty days prior to the convening of the 1988 and 1989 regular session."

(77) By adding a new section to read as follows:

"SECTION 76A. Provided that of the general fund appropriation for sanitation and substance control (HTH 611), the sum of \$158,851 in fiscal year 1988-89 shall be used to collect, monitor, and regulate food samples for pesticide residues."

(78) By adding a new section to read as follows:

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"SECTION 78A. Provided that of the general fund appropriation for drinking water quality (HTH 621), the sum of \$131,400 in fiscal year 1988-89 shall be used to collect, monitor, and regulate the quality of drinking water."

(79) By adding a new section to read as follows:

"SECTION 79A. Provided that of the general fund appropriation for laboratory services (HTH 901), the sum of \$357,297 and 9 positions transferred from drinking water quality (HTH 621), in fiscal year 1988-89 shall primarily be used for the laboratory support of the federally mandated drinking water program in conformance with the federal Safe Drinking Water Act amendment of 1986."

(80) By adding a new section to read as follows:

"SECTION 79B. Provided that of the general fund appropriation for laboratory services (HTH 901), the sum of \$372,000 in fiscal year 1988-89 shall be used to test for contaminants in food samples."

(81) By adding a new section to read as follows:

"SECTION 81A. Provided that of the general fund appropriation for records, data collection, and research (HTH 903), the sum of \$105,000 in fiscal year 1988-89 shall be expended to purchase a copy machine and contract for related services; provided further that any moneys in excess of the actual costs shall be lapsed into the general fund."

(82) By adding a new section to read as follows:

"SECTION 81B. Provided that of the general fund appropriation for records, data collection and research (HTH 903), the sum of \$75,000 in fiscal year 1988-89 shall be expended to contract for a study of the integration of vital records into a computerized system; provided further that any moneys in excess of the actual costs shall be lapsed into the general fund."

(83) By amending Section 84 to read as follows:

"SECTION 84. Provided that of the general fund appropriation for health education (HTH 908), the sum of \$59,173 in fiscal year 1987-88 and \$121,573 in fiscal year 1988-89 shall be used for purchase of service."

(84) By adding a new section to read as follows:

"SECTION 86A. Provided that of the general fund appropriation for general administration (HTH 907), the sum of \$110,000 in fiscal year 1988-89 shall be used for one special assistant, one secretary, and related expenses for the reorganization efforts of the department of health; provided further that the department of health shall submit a report on the status of the reorganization and the expenditures twenty days prior to the convening of the 1989 regular session."

(85) By adding a new section to read as follows:

"SECTION 86B. Provided that of the general fund appropriation for general administration (HTH 907), the sum of \$60,000 in fiscal year 1988-89 shall be expended for preventive health programs for native Hawaiians."

(86) By adding a new section to read as follows:

“SECTION 86C. Provided that the county/state hospital division shall submit a report to the 1989 legislature on cash balances available in the hospital division and in general administration (HTH 907) for the fiscal year ending June 30, 1988, and estimated cash balances for the fiscal year ending June 30, 1989, and how these cash balances were or are expected to be spent; provided further that the county/state hospital division shall submit this report twenty days prior to the convening of the 1989 regular session.”

(87) By adding a new section to read as follows:

“SECTION 86D. Provided that of the general fund appropriation for private hospitals and medical services (SUB 601), the sum of \$300,000 in fiscal year 1988-89 shall be used as a grant-in-aid to Saint Francis hospital for the relocation of the renal dialysis facility at Maui memorial hospital.”

(88) By adding a new section to read as follows:

“SECTION 86E. Provided that of the general fund appropriation for private hospitals and medical services (SUB 601), the sum of \$167,000 in fiscal year 1988-89 shall be expended by Kahuku hospital for a one-time grant-in-aid to ensure fiscal viability and continued operations.”

(89) By adding a new section to read as follows:

“SECTION 87A. Provided that of the special fund appropriations for the county/state hospitals division of the department of health, the sum of \$5,000,000 in fiscal year 1988-89 shall be expended, as follows:

1. \$3,000,000 shall be expended by Kona hospital (HTH 215) for equipment and improvements to Kona hospital;
2. \$1,000,000 shall be expended by Maui memorial hospital (HTH 221) for equipment and improvements to Maui memorial hospital;
3. \$1,000,000 shall be expended by the county/state hospitals division of the department of health for equipment and improvements to the county/state hospitals statewide;

provided further that the excess receipts from the county/state hospitals division in fiscal year 1987-88 shall be used to fund these expenditures.”

(90) By adding a new section to read as follows:

“SECTION 88A. Provided that the county/state hospitals division of the department of health shall submit a report to the legislature on a semiannual basis for the fiscal year 1989 detailing the hospitals’ revenues collection performance; provided further that the semiannual reports shall include the following information:

- (1) Balance sheets and income statements, including a breakdown of the total revenues detailing the total revenues incurred, total revenues billed, and the total revenues collected;
- (2) An aging report of accounts receivable;
- (3) A detailed schedule of the total funds collected internally by the hospitals, collected by third party collectors; and the portion of each which is attributed to medicaid/medicare reimbursements;

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(4) A listing of third party collectors and the amounts of billings assigned, the amounts collected, and the portion of the collections retained by the collectors; and

(5) Billings recorded as losses for the hospitals;

provided further that the information included in the report, and pertaining to the county/state hospitals of the state of Hawaii, shall reflect a breakdown of the data according to individual hospitals, as well as an aggregate sum of all the hospitals; provided further that the report shall be submitted no later than one month after the end of each semester of fiscal year 1989.”

(91) By adding a new section to read as follows:

“SECTION 88B. Provided that the county/state hospitals division of the department of health shall submit a report to the legislature twenty days prior to the 1989 regular session; provided further that the report shall include the following information:

(1) Details on measures implemented to increase the dollar receipts of the county/state hospitals division; and

(2) Details on measures implemented in response to each recommendation stated in report no. 88-8, January 1988, A Study of the County/State Hospital Program, submitted by the legislative auditor of the state of Hawaii.”

(92) By adding a new section to read as follows:

“SECTION 88C. Provided that the legislative auditor shall review and report on the actions of the department of health to implement the recommendations made in report no. 88-8, A Study of the County/State Hospital Program, January 1988; provided further that the auditor shall report to the legislature twenty days prior to the 1989 regular session.”

(93) By adding a new section to read as follows:

“SECTION 88D. Provided that the executive budget for fiscal year 1989-90 submitted to the legislature shall further reduce the appropriation for the county/state hospitals division to \$8,929,059; provided further that the executive budget for fiscal year 1990-91 shall further reduce the appropriation for the county/state hospitals division to \$7,798,279; provided further that the executive budget submitted to the legislature shall reduce the appropriation for the county/state hospitals division submitted in fiscal year 1991-92 by \$1,130,780; provided further that the executive budget submitted to the legislature shall continue to reduce the appropriation for the county/state hospitals division in each fiscal year following 1991-92 until the appropriation for the division is zero; and provided further that the executive budget submitted to the 1989 legislature shall contain this provision updated one year.”

(94) By amending Section 91 to read as follows:

“SECTION 91. Provided that of the general fund appropriation for services to individuals and families (SOC 111), the sum of \$5,340,669 in fiscal year 1987-88 and \$6,264,051 in fiscal year 1988-89 shall be provided further of the federal funds authorized, the sum of \$3,183,763 in fiscal year 1987-88 and \$3,183,763 in fiscal year 1988-89 shall be used for purchase of services; provided further that of the preceding general funds, \$300,000 in fiscal year 1987-88 and \$300,000 in fiscal year 1988-89 shall be used for child care payments for family day care services to the developmentally delayed; provided further that a financial and performance

audit of expenditures on a sample basis of total expenditures for purchases of services to individuals and families for fiscal year 1988-89 shall be performed by the legislative auditor; provided further that the legislative auditor shall submit a copy of the financial and performance audit to the legislature twenty days prior to the convening of the 1989 regular session.”

(95) By amending Section 92 to read as follows:

“SECTION 92. Provided that of the general fund appropriation for services to individuals and families (SOC 111), the sum of \$50,000 in fiscal year 1987-88 shall be used as a grants-in-aid to the boys and girls club of Waianae; provided further that the sum of \$37,500 in each year of the fiscal biennium 1987-89 shall be used as a grants-in-aid to the boys and girls club of Honolulu; provided further that the sum of \$453,050 in fiscal year 1988-89 shall be used for various additional grants-in-aid.”

(96) By adding a new section to read as follows:

“SECTION 92A. Provided that of the general fund appropriation for services to individuals and families (SOC 111), the sum of \$30,000 in fiscal year 1988-89 shall be used to improve the identification of child abuse and neglect by offering periodic orientation and training to individuals who are responsible for making child abuse and neglect reports.”

(97) By amending Section 94 to read as follows:

“SECTION 94. Provided that of the general fund appropriation for private housing development and ownership (BED 225), the sum of \$205,600 in fiscal year 1988-89 shall be used for grants-in-aid.”

(98) By amending Section 96 to read as follows:

“SECTION 96. Provided that in establishing fees for individual practitioners for health care payments (SOC 230) for fiscal year 1987-88, the department of human services shall use 56 percent of the 1986 profile of usual and customary fees of health care practitioners adjusted to the 75th percentile within the limits of this appropriation; provided further that the reimbursement shall not be less than the amount provided for fiscal year 1986-87; provided further that for fiscal year 1988-89, the department of human services shall use 56 percent of the most recent available profile of usual and customary fees of health care practitioners adjusted within the limits of this appropriation; provided further that \$250,000 in general funds in fiscal year 1988-89 shall be expended for reimbursement of dental health services statewide; provided further that the reimbursement shall not be less than the amount provided for fiscal year 1987-88.”

(99) By adding a new section to read as follows:

“SECTION 96A. Provided that of the general fund appropriation for veterans cemeteries and burial payments (SOC 905), the sum of \$10,000 in fiscal year 1988-89 shall be used to supplement operation and maintenance costs for veterans cemeteries; provided further that \$6,000 in fiscal year 1988-89 shall be used to purchase a portable canopy and indoor-outdoor carpeting for use during burials at the veterans cemeteries.”

(100) By amending Section 97 to read as follows:

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“SECTION 97. Provided that of the general fund appropriation for eligibility determination (SOC 236), the sum of \$600,000 in fiscal year 1987-88 and \$1,200,000 in fiscal year 1988-89 shall be used for the voluntary workfare program; provided further that of the amount appropriated for fiscal year 1988-89, \$50,000 shall be for consultant fees for an evaluation of the program; provided further that a report of the findings shall be submitted to the legislature no later than twenty days prior to the convening of the 1989 regular session.”

(101) By adding a new section to read as follows:

“SECTION 98A. Provided that of the general fund appropriation for the child support enforcement agency (ATG 500), the sum of \$190,888 in fiscal year 1988-89 shall be used for six hearing officer positions pursuant to federal requirements in the administrative process of child support cases.”

(102) By adding a new section to read as follows:

“SECTION 99A. Provided that of the general fund appropriation for planning, program development and coordination of services for children and youth (GOV 861), the sum of \$125,000 in fiscal year 1988-89 shall be used for a statewide child care needs assessment; provided further that the sum of \$36,000 in fiscal year 1988-89 shall be used for a child care advocate/coordinator who will:

1. Coordinate a statewide child care needs assessment, to include government employees if practical. This needs assessment shall consider statewide child care concerns regarding quality, availability, and affordability for the parents or guardians. This assessment will also consider the concerns of child care providers, such as salaries and working conditions.
2. Develop together with the department of business and economic development plans and strategies involving business and government partnerships that will promote the availability and affordability of child care throughout the state.

Provided further that a progress report reflecting the findings and recommendations to date shall be submitted to the legislature twenty days prior to the convening of the 1989 regular session.”

(103) By amending Section 102 to read as follows:

“SECTION 102. Provided that of the general fund appropriation for planning, program development and coordination of services for the elderly (GOV 602), the sum of \$3,884,589 in fiscal year 1987-88 and \$4,289,372 in fiscal year 1988-89, shall be used for purchase of service; provided further that of the appropriation for purchase of service, the sum of \$244,318 in each fiscal year of the biennium shall be used for tuition subsidy for the elderly; provided further that the sum \$45,000 in fiscal year 1988-89 shall be used for grants-in-aid.”

(104) By adding a new section to read as follows:

“SECTION 103A. Provided that of the general fund appropriation for planning, program development and coordination of services for the elderly (GOV 602), the sum of \$95,000 in fiscal year 1988-89 shall be used to implement a demonstration project for a public awareness program on long-term care insurance and for the development, production, and distribution of multilingual materials pertaining to long term care issues for the elderly; provided further that the office of the elderly

shall submit a report on the demonstration project and the information project to the legislature twenty days prior to the convening of the 1989 regular session.”

(105) By adding a new section to read as follows:

“SECTION 103B. Provided that of the general fund appropriation for planning, program development and coordination of services for the elderly (GOV 602), the sum of \$42,450 in fiscal year 1988-89 shall be for the purposes of conducting a senior resource inventory demonstration project to develop a resource pool of older volunteers to enhance public education in the state.”

(106) By adding a new section to read as follows:

“SECTION 103C. Provided that of the general fund appropriation for planning, program development and coordination of services for the elderly (GOV 602), the sum of \$200,000 in fiscal year 1988-89 shall be used to hire five geriatric social workers and a clerical staff person, and to provide other requisite expenses, to address the needs of elderly housing residents through a demonstration project serving the following sites:

Makua Alii with Paoakalani and Kalakaua Midrise (462 units);
Punchbowl Homes (156 units);
Pumehana (139 units);
Kupuna Home in Waialua (41 units);
Kahuku Elderly-Hauoli Hale (64 units);
Kapuna I (160 units).”

(107) By amending Section 104 to read as follows:

“SECTION 104. Provided that the amounts shown for regular instruction (EDN 105) are intended for regular instruction student enrollment projections of 157,251 for fiscal year 1987-88 and 159,139 for fiscal year 1988-89; and provided further that the amounts shown for special education (EDN 107) are intended for special education student enrollment projections of 8,710 for fiscal year 1987-88 and 9,379 for fiscal year 1988-89.”

(108) By amending Section 112 to read as follows:

“SECTION 112. Provided that of the general fund appropriation for other regular instruction (EDN 106), the sum of \$587,000 for fiscal year 1987-88 and \$880,488 for fiscal year 1988-89 shall be used to continue the 21 learning centers already established.”

(109) By amending Section 113 to read as follows:

“SECTION 113. Provided that of the general fund appropriation for other regular instruction (EDN 106), the sum of \$50,000 for fiscal year 1987-88 and \$540,105 for fiscal year 1988-89 shall be used to plan the distance learning program; provided further that the department of education shall submit the plan, including a pilot test of the plan and an evaluation of the pilot test to the legislature twenty days prior to the convening of the 1988 and 1989 regular sessions.”

(110) By adding a new section to read as follows:

“SECTION 116A. Provided that of the general fund appropriation for other regular instruction (EDN 106), the sum of \$15,000 in fiscal year 1988-89 shall be

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expended for a year-round school, single-track pilot project at Heeia elementary school; provided further that the department of education shall submit an evaluation report to the legislature twenty days prior to the convening of the 1989 regular session.”

(111) By adding a new section to read as follows:

“SECTION 126A. Provided that of the general fund appropriation for other regular instruction (EDN 106), the sum of \$50,000 in fiscal year 1988-89 shall be used to purchase instructional materials in the Hawaiian language for use in Hawaiian language medium classes.”

(112) By adding a new section to read as follows:

“SECTION 126B. Provided that of the general fund appropriation for other regular instruction (EDN 106), the sum of \$50,600 in fiscal year 1988-89 shall be expended to purchase films on various world war II experiences for their inclusion into the educational curriculum of the students of Hawaii.”

(113) By adding a new section to read as follows:

“SECTION 126C. Provided that of the general fund appropriation for other regular instruction (EDN 106), the sum of \$10,000 in fiscal year 1988-89 shall be expended to defray the expenses of the fall 1988 conference, “a coalition on behalf of children” conducted by elementary school center-Hawaii to make our elementary schools more effective and responsive to the needs and rights of children.”

(114) By adding a new section to read as follows:

“SECTION 126D. Provided that of the general fund appropriation for other regular instruction (EDN 106), the sum of \$20,000 in fiscal year 1988-89 shall be used to support the vocational industrial clubs of America.

(115) By adding a new section to read as follows:

“SECTION 126E. Provided that of the general fund appropriation for other regular instruction (EDN 106), the sum of \$70,000 in fiscal year 1988-89 shall be used to support space-related activities of the department of education.”

(116) By adding a new section to read as follows:

“SECTION 126F. Provided that of the general fund appropriation for other regular instruction (EDN 106), the sum of \$30,000 in fiscal year 1988-89 shall be used to supplement regular teacher salaries for extracurricular speech activities.”

(117) By adding a new section to read as follows:

“SECTION 126G. Provided that of the general fund appropriation for other regular instruction (EDN 106), the sum of \$34,000 in fiscal year 1988-89 shall be used for grants-in-aid.”

(118) By amending Section 127 to read as follows:

“SECTION 127. Provided that of the general fund appropriation for exceptional child (EDN 107), the sum of \$530,943 in fiscal year 1987-88 and \$5,748,022

and 353.5 positions in fiscal year 1988-89 shall be used to improve basic instruction for handicapped students; provided further that of the sums appropriated, \$5,117,728 in fiscal year 1988-89 shall be for 196 special education teacher positions and 157.5 educational assistant positions to begin implementation of the department of education's 1987 staffing goals for special education."

(119) By adding a new section to read as follows:

"SECTION 127A. Provided that the legislative auditor shall conduct a budget review and analysis of the special education program; provided further that the budget review and analysis shall include, but not be limited to, an assessment of federal and state requirements for special education and the fiscal impact of those requirements; provided further that the legislative auditor shall submit a report on findings and recommendations twenty days prior to the convening of the 1989 regular session."

(120) By amending Section 132 to read as follows:

"SECTION 132. Provided that of the general fund appropriation for compensatory education (EDN 108), the sum of \$527,276 in fiscal year 1987-88 and \$564,078 in fiscal year 1988-89 shall be used for purchase of service."

(121) By adding a new section to read as follows:

"SECTION 138A. Provided that of the general fund appropriation for instructional development (EDN 205), the sum of \$28,515 in fiscal year 1988-89 shall be used to provide training to personnel involved in observation-participation experiences for student teachers."

(122) By adding a new section to read as follows:

"SECTION 144A. Provided that of the general fund appropriation for student activities (EDN 207), the sum of \$6,000 in fiscal year 1988-89 will be used for a statewide conference on conflict management."

(123) By adding a new section to read as follows:

"SECTION 148A. Provided that of the general fund appropriation for state administration (EDN 303), the sum of \$50,000 in fiscal year 1988-89 shall be used for recruitment of teachers in shortage categories."

(124) By adding a new section to read as follows:

"SECTION 152A. Provided that of the general fund appropriation for state administration (EDN 303), the sum of \$90,382 in fiscal year 1988-89 shall be used for the training of educational officers from the neighbor islands; provided further that in the event federal funds for this purpose become available, an equal amount of general funds provided under this section shall lapse."

(125) By adding a new section to read as follows:

"SECTION 154A. Provided that of the general fund appropriation for state administration (EDN 303), the sum of \$981,153 in fiscal year 1988-89 shall be expended primarily to provide the purchase of software and the hire of data pro-

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cessing staff to enable installation and testing of the first phase of the financial management system; provided further that a comprehensive evaluation and plans of this system shall be submitted to the legislature twenty days prior to the convening of the 1989 regular session.”

(126) By adding a new section to read as follows:

“SECTION 154B. Provided that of the general fund appropriation for school administration (EDN 303), the sum of \$10,000 in fiscal year 1988-89 shall be used for grants to secondary school level administrators to attend professional development conferences and seminars; provided further that the department of education shall coordinate the grants with the Hawaii association of secondary school administrators which shall select the professional development conferences and seminars and provide the department with the names of the secondary school level administrators who are to attend.”

(127) By adding a new section to read as follows:

“SECTION 154C. Provided that of the general fund appropriation for state administration (EDN 303), the sum of \$50,000 in fiscal year 1988-89 shall be for a comprehensive external evaluation and review of the learning center program design, effectiveness, and future expenditures to meet the program’s objectives by an independent organization and the results of the evaluation shall be submitted to the legislature twenty days prior to the convening of the 1989 regular session.”

(128) By adding a new section to read as follows:

“SECTION 154D. Provided that of the general fund appropriation for state administration (EDN 303), the sum of \$87,000 for fiscal year 1988-89 shall be used for the purpose of exposing students, particularly Filipino students and students from other underrepresented groups, to information on career opportunities in public education and encouraging their choice of teaching as a career goal and to also develop and administer a comprehensive pre-service training program for these underrepresented groups; provided further that the department of education shall submit a status report of the program and a comprehensive evaluation to the legislature twenty days prior to the convening of the 1989 regular session.”

(129) By adding a new section to read as follows:

“SECTION 154E. Provided that the department of education shall conduct a study to evaluate the cost effectiveness of a centralized maintenance contract or self maintenance program for microcomputers, minicomputers and their associated peripheral equipment, to include peripheral equipment to mainframe computers; provided further that this study shall consider the establishment of an effective inventory control system; provided further that the department shall update its inventory lists relating to computer equipment and their peripheral equipment, and these updated lists shall accurately reflect the types and kind of computer and peripheral equipment currently held by the department; provided further that a report of the study containing findings and recommendations shall be submitted to the legislature twenty days prior to the convening of the 1989 regular session.”

(130) By adding a new section to read as follows:

“SECTION 155A. Provided that of the general fund appropriation for district administration (EDN 304), the sum of \$26,461 in fiscal year 1988-89 shall be used for an educational coordinator for the Waipahu cultural gardens park.”

(131) By adding a new section to read as follows:

“SECTION 156A. Provided that of the general fund appropriation for safety and security service (EDN 306), the sum of \$300,000 in fiscal year 1988-89 shall be used for a pilot project to provide night security at high risk schools as determined by the department of education; provided further that the department of education shall submit an evaluation of program effectiveness to the legislature no later than twenty days prior to the convening of the 1990 regular session.”

(132) By amending Section 158 to read as follows:

“SECTION 158. Provided that of the general fund appropriation for physical plant operations and maintenance (AGS 807), the sum of \$37,800 and 3.0 positions for fiscal year 1987-88 and \$37,800 and 3.0 positions for fiscal year 1988-89 shall be used for a clerical typist in Hawaii, Kauai, and Maui.”

(133) By adding a new section to read as follows:

“SECTION 158A. Provided that of the general fund appropriation for physical plant operations and maintenance (AGS 807), the sum of \$7,000,000 in fiscal year 1988-89 shall be used to further reduce the public school repair and maintenance backlog.”

(134) By adding a new section to read as follows:

“SECTION 158B. Provided that of the general fund appropriation for student transportation (AGS 808), the sum of \$250,000 in fiscal year 1988-89 shall be used for a demonstration project in Maui county to provide transportation services for handicapped persons going to and from adult programs administered or contracted by the department of health and department of human services.”

(135) By amending section 159 to read as follows:

“SECTION 159. Provided that of the general fund appropriation for adult education (EDN 406), the sum of \$300,000 for fiscal year 1987-88 and \$492,480 for fiscal year 1988-89 shall be used for parent education and to develop programs to involve the participation of parents in schools; provided further that parent education and participation programs shall be tailored to meet the needs and conditions of individual schools; provided further that the effectiveness of parenting education centers shall be evaluated by the department of education and the results of the evaluation shall be submitted to the legislature twenty days prior to the convening of the 1988 and 1989 regular session.”

(136) By adding a new section to read as follows:

“SECTION 163A. Provided that of the general fund appropriation for public libraries (EDN 407), the sum of \$620,427 in fiscal year 1988-89 shall be expended to complete phase III of the online public access system which will increase the distribution of catalog system services statewide.”

(137) By adding a new section to read as follows:

“SECTION 163B. Provided that of the general fund appropriation for public libraries (EDN 407), the sum of \$60,000 in fiscal year 1988-89 shall be expended for additional magazine and newspaper subscriptions.”

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(138) By adding a new section to read as follows:

“SECTION 163C. Provided that of the general fund appropriation for public libraries (EDN 407), the sum of \$25,000 in fiscal year 1988-89 shall be expended for a study and development of a new classification and compensation plan for public librarians; provided further that the study shall be submitted to the legislature twenty days prior to the convening of the 1989 regular session.”

(139) By adding a new section to read as follows:

“SECTION 163D. Provided that of the general fund appropriation in public libraries (EDN 407), the sum of \$123,345 and 11 positions in fiscal year 1988-89 shall be used for librarian positions for Makawao, Wahiawa and Hanapepe public libraries and librarian assistant positions for Salt Lake, Kapaa, Waialua, Waianae, Aiea, Aina Haina, Kailua-Kona, and Pearl City public libraries.”

(140) By adding a new section to read as follows:

“SECTION 167A. Provided that of the general fund appropriation for instruction, university of Hawaii, Manoa (UOH 101), the sum of \$28,677 in fiscal year 1988-89 shall be used to provide for five minority traineeships in the disadvantaged minority recruitment, retention, and training project (DMRRTP) university of Hawaii school of social work.”

(141) By adding a new section to read as follows:

“SECTION 167B. Provided that of the general fund appropriation for instruction, university of Hawaii, Manoa (UOH 101), one position and the sum of \$32,736 in fiscal year 1988-89 shall be used for a full-time educational retention specialist in the disadvantaged minority recruitment, retention and training project (DMRRTP) university of Hawaii school of social work.”

(142) By adding a new section to read as follows:

“SECTION 167C. Provided that of the general fund appropriation for instruction, university of Hawaii, Manoa (UOH 101), one position and the sum of \$47,460 in fiscal year 1988-89 shall be used to fund the historic preservation certificate program.”

(143) By adding a new section to read as follows:

“SECTION 167D. Provided that of the general fund appropriation for instruction, university of Hawaii, Manoa (UOH 101), the sum of \$90,000 in fiscal year 1988-89 shall be used for a center for arts and humanities to enhance the research, service, and teaching capacities in core areas.”

(144) By adding a new section to read as follows:

“SECTION 167E. Provided that of the general fund appropriation for instruction, university of Hawaii, Manoa (UOH 101), two positions and the sum of \$587,000 in fiscal year 1988-89 shall be used for a senior professor and an experienced software practitioner, additional physical plant, state-of-the-art equipment, and research associates needed to establish a software engineering center at the university.”

(145) By adding a new section to read as follows:

“SECTION 167F. Provided that of the general fund appropriation for instruction, university of Hawaii, Manoa (UOH 101), the sum of \$500,000 shall be expended in fiscal year 1988-89 by the university of Hawaii board of regents by a service order to the research corporation of the university of Hawaii; provided further that the research corporation of the university of Hawaii shall contract with the Hawaii Bishop research institute to conduct research in fields to include but not be limited to anthropology, botany, entomology, zoology, biological diversity, conservation biology, museum studies and artifact conservation, Pacific cultures, and art history; provided further that the release of the funds shall be contingent upon the establishment of the institute.”

(146) By amending Section 171 to read as follows:

“SECTION 171. Provided that of the general fund appropriation for organized research, university of Hawaii, Manoa (UOH 102), the sum of \$100,000 or so much thereof as may be necessary in each year of the fiscal biennium 1987-89 shall be expended to temporarily continue the north Hawaii pasture and diversified crop program; provided further that fiscal year 1988-89 shall be the final year of this program.”

(147) By adding a new section to read as follows:

“SECTION 171A. Provided that of the general fund appropriation for organized research, university of Hawaii, Manoa (UOH 102), the sum of \$53,306 in fiscal year 1988-89 shall be expended to revise and add to existing curriculum on polynesian migration based on the voyage of the Hokule'a; provided further that this sum shall be matched by other sources of funds either by in-kind contributions or actual dollars.”

(148) By adding a new section to read as follows:

“SECTION 171B. Provided that of the general fund appropriation for organized research, university of Hawaii, Manoa (UOH 102), one position and the sum of \$50,000 in fiscal year 1988-89 shall be used to fund a new entomologist position to be stationed on Kauai to work on the fruit fly eradication project.”

(149) By adding a new section to read as follows:

“SECTION 171C. Provided that of the general fund appropriation for organized research, university of Hawaii, Manoa (UOH 102), the sum of \$200,000 in fiscal year 1988-89 shall be used to fund a center for tourism research and policy study.”

(150) By adding a new section to read as follows:

“SECTION 171D. Provided that of the general fund appropriation for organized research, university of Hawaii, Manoa (UOH 102), three positions and the sum of \$150,000 in fiscal year 1988-89 shall be used to support deep ocean submergence operations; provided further that the sum of \$500,000 in fiscal year 1988-89 shall be used for the purpose of matching federal funds of \$1,500,000 to purchase and refit a 200-foot-long vessel for the Hawaii undersea research laboratory.”

(151) By adding a new section to read as follows:

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“SECTION 171E. Provided that of the general fund appropriation for organized research, university of Hawaii, Manoa (UOH 102), the sum of \$30,000 in fiscal year 1988-89 shall be used to fund a feasibility study to determine the most suitable sites in the State for commercial seaweed production.”

(152) By adding a new section to read as follows:

“SECTION 171F. Provided that of the general fund appropriation for organized research, university of Hawaii, Manoa (UOH 102), the sum of \$75,000 in fiscal year 1988-89 shall be used for a pilot project to study the feasibility of using fish ponds and open-water cages to promote fish reproduction for the purpose of breeding a greater variety of fish for commercial aquaculture and for release of fish into the sea to replenish depleted natural stocks.”

(153) By adding a new section to read as follows:

“SECTION 178A. Provided that of the general fund appropriation for student services, university of Hawaii, Manoa (UOH 105), the sum of \$100,000 in fiscal year 1988-89 shall be used for a minority student program.”

(154) By adding a new section to read as follows:

“SECTION 178B. Provided that of the general fund appropriation for student services, university of Hawaii, Manoa (UOH 105), the sum of \$95,000 in fiscal year 1988-89 shall be used to improve academic support and instruction for undergraduate programs by providing additional and specialized academic advisors and an expanded quality core curriculum and interdisciplinary programs.”

(155) By amending Section 181 to read as follows:

“SECTION 181. Provided that the general fund appropriation for level IV institutional support programs includes the following accounts for electricity costs:

<u>Program ID</u>	<u>FY 1987-88</u>	<u>FY 1988-89</u>
UOH 106	\$ 5,062,957 85,522,935 KWH \$.0592/KWH	\$ 5,980,759 88,735,297 KWH \$.0674/KWH
UOH 216	\$ 782,258 6,445,726 KWH \$.1167/KWH	\$ 752,216 6,445,726 KWH \$.1167/KWH
UOH 305	\$ 347,300 5,137,568 KWH \$.0676/KWH	\$ 437,578 5,297,568 KWH \$.0826/KWH
UOH 315	\$ 273,424 3,318,242 KWH \$.0824/KWH	\$ 368,172 4,059,242 KWH \$.0907/KWH
UOH 325	\$ 362,015 4,513,900 KWH \$.0802/KWH	\$ 360,858 4,493,900 KWH \$.0803/KWH
UOH 335	\$ 43,997 705,080 KWH	\$ 56,290 717,080 KWH

	\$.0624/KWH	\$.0785/KWH
UOH 505	\$ 177,682 1,695,431 KWH \$.1048/KWH	\$ 222,065 1,867,667 KWH \$.1189/KWH
UOH 605	\$ 263,378 1,953,840 KWH \$.1348/KWH	\$ 299,326 1,953,840 KWH \$.1532/KWH
UOH 706	\$ 22,228 214,342 KWH \$.1037/KWH	\$ 22,228 214,342 KWH \$.1037/KWH

As used in this section, "KWH" means kilowatt hours; provided further that the electricity rates and kilowatt usage as identified herein shall be used as a reference base by the university and the legislature in determining any deficits in funding for electricity; provided further that all such funds appropriated not expended or encumbered as provided in this section shall lapse into the general funds; provided further that the legislative auditor shall conduct a study on general, special, federal, and revolving fund electricity costs and consumption at the university of Hawaii; provided further that this report shall include, but not be limited to, the following: actual consumption as compared to the original projections listed above and an explanation of any consumption variances; an assessment of existing and planned energy conservation measures employed by the university; and recommendations for energy conservation, including projected cost impacts to implement such measures and projected savings; and provided further that a preliminary report of its findings shall be submitted to the legislature twenty days prior to the convening of the 1988 regular session; provided further that a final report of findings and recommendations shall be submitted to the legislature twenty days prior to the convening of the 1989 regular session."

(156) By amending Section 183 to read as follows:

"SECTION 183. Provided that of the general fund appropriation for institutional support, university of Hawaii, Manoa (UOH 106), the sum of \$10,812,042 in fiscal year 1987-88 and \$10,400,000 in fiscal year 1988-89 shall be expended for the following nonrecurring repair and maintenance projects:

<u>Project Description</u>	<u>FY 1987-88</u>	<u>FY 1988-89</u>
Replace/repair of air conditioning equipment, various buildings	2,400,000	1,565,000
Renovation and repair, state agriculture Halawa quarantine station cattery	65,000	
Repair of roof and flashings, aquarium	30,000	
Repair and maintenance, various buildings off Manoa campus, college of tropical agriculture and human resources	785,000	875,000
Replace/repairs to elevators various buildings		500,000
Improvement of fire alarm systems, various buildings	225,000	
Replacement of floor coverings, various buildings	50,000	275,000
Replacement of steam generator, cancer research center	30,000	

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General repairs, various buildings	1,537,042	1,150,000
Grounds maintenance	100,000	100,000
Replacement/repairs, irrigation systems	50,000	50,000
Replacement of lighting system, Kennedy Theatre	450,000	
Repairs to Look Lab, Kewalo Basin	75,000	90,000
Replacement of light fixtures, various buildings		650,000
Repairs to 88-inch telescope dome, Mauna Kea Observatory	100,000	
Interior repairs, Orvis Auditorium		150,000
Repair and paint, quarry area		150,000
Repairs to roads	50,000	100,000
Exterior painting and repairs various buildings	1,465,000	1,445,000
Reroofing of various buildings	3,400,000.	3,200,000
Seat replacement, light repairs and other repair and maintenance to auditoriums of Spalding, Kuykendall, Hawaii Institute of Geophysics, and the physical science buildings.		100,000

to establish and implement a cyclical schedule of repair and maintenance of grounds and facilities within the fiscal biennium 1987-89; provided further that in the implementation of this requirement, the university of Hawaii may use its present staff, student help, and other such temporary personnel pursuant to section 76-16, Hawaii Revised Statutes; and unless otherwise prohibited by law, the university of Hawaii may make expenditures and enter into contracts for necessary equipment, supplies, materials, labor, professional services, and technical assistance to satisfy the objectives of this appropriation; provided further that unrequired funds from the repair and maintenance projects authorized under the terms of this section may be expended for other institutional repair and maintenance needs, including repairs of the university of Hawaii athletic facilities; and provided further that the university of Hawaii shall submit a status report of each of these repair and maintenance projects and expenditures to the legislature twenty days prior to the convening of the regular session of 1988 and 1989."

(157) By adding a new section to read as follows:

"SECTION 185A. Provided that of the general fund appropriation for instruction, university of Hawaii, Hilo (UOH 211), the sum of \$239,050 in fiscal year 1988-89 shall be expended for the UHH-west Hawaii program for nonrecurring equipment expenditures to (1) replace fire damaged kitchen equipment for the culinary arts program, \$46,900; (2) purchase library equipment, \$50,800; (3) purchase hotel, food service laboratory, equipment, \$25,200; (4) purchase educational, scientific and general office equipment, \$116,150; and provided further that the university shall report to the legislature on the expenditure of these funds twenty days prior to the convening of the 1989 regular session.

(158) By adding a new section to read as follows:

“SECTION 185B. Provided that of the general fund appropriation for instruction, university of Hawaii, Hilo (UOH 211), the sum of \$25,000 and one position count in fiscal year 1988-89 shall be expended for classroom instruction and curriculum development in Hawaiian studies.”

(159) By adding a new section to read as follows:

“SECTION 188A. Provided that of the general fund appropriation for student services, university of Hawaii, Hilo (UOH 215), the sum of \$25,000 in fiscal year 1988-89 shall be used to fund a minority student program.”

(160) By amending Section 190 to read as follows:

“SECTION 190. Provided that of the general fund appropriation for institutional support, university of Hawaii, Hilo (UOH 216), the sum of \$1,195,000 in fiscal year 1987-88 and \$1,030,000 in fiscal year 1988-89 shall be expended for the following nonrecurring repair and maintenance projects:

<u>Project Description</u>	<u>FY 1987-88</u>	<u>FY 1988-89</u>
Reroof and replace gutters and downspouts, portable buildings 5, 6, 7	\$	\$ 80,000
Replace gutters and downspouts, Hale Ikena student apartments		35,000
Repair and replace roof, gutters, and exterior/interior painting for Hale Aloha student dormitory (HCC)		130,000
Repair and replace roof, gutters and downspouts, and exterior/interior painting for classroom buildings 380 and 381		170,000
Repair and replace roof, gutters and downspouts, and exterior/interior painting for classroom buildings 378 and 379 (HCC)		140,000
Reroof theatre	250,000	
Repair and reroof campus center dining room	190,000	
Repair, reroof, and paint exterior, college hall C	370,000	
Exterior and interior repairs and painting, life science building	45,000	
Reroof, exterior and interior repairs, and painting of old gym, locker/showers and auxiliary services	185,500	
Reroof, exterior and interior repairs, and painting of old gym, locker/showers and auxiliary services	39,500	
Repair and replace gutters and downspouts, cafeteria building 382 (HCC)	15,000	

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Exterior and interior repair and painting, portable building 394 (HCC)	40,000
Repair roof and exterior and interior painting, electricity building 385A (HCC)	60,000
Repair and paint roof, gutters and downspouts, physical education facilities	100,000
Resurface tennis courts	100,000
Repair and paint roof, gutters and downspouts, and exterior and interior painting of college hall A & B	150,000
Replace and/or repair lab benches, fume hoods, classroom/lecture hall chairs, and the ventilation system in Room 1 of Wentworth Hall.	125,000

to establish and implement a cyclical schedule of repair and maintenance of grounds and facilities within the fiscal biennium 1987-89, and provided further that in the implementation of this requirement, the university of Hawaii may use its present staff, student help, and other such temporary personnel pursuant to section 76-16, Hawaii Revised Statutes; and unless otherwise prohibited by law, the university of Hawaii may make expenditures and enter into contracts for necessary equipment, supplies, materials, labor, professional services, and technical assistance to satisfy the objectives of this appropriation; provided further that unrequired funds from the repair and maintenance projects authorized under the terms of this section may be expended for other institutional repair and maintenance needs; provided further that the chancellor for the university of Hawaii, Hilo shall submit a status report and expenditure report of each of these repair and maintenance projects to the legislature twenty days prior to the convening of the regular session of 1988 and 1989."

(161) By adding a new section to read as follows:

"SECTION 192A. Provided that the general fund appropriation for public service, Kapiolani community college (UOH 312), the sum of \$75,000 in fiscal year 1988-89 shall be used to develop or expand existing interpretation training programs throughout the state."

(162) By adding a new section to read as follows:

"SECTION 193A. Provided that of the general fund appropriation for instruction, Maui community college (UOH 501), the sum of \$107,000 and three positions in fiscal year 1988-89 shall be expended to hire instructors in nursing."

(163) By adding a new section to read as follows:

"SECTION 202A. Provided that of the general fund appropriation for institutional support, university of Hawaii, systemwide support, (UOH 903), the sum of \$3,125,000 in fiscal year 1988-89 shall be expended for the new technology transfer program; provided further that a progress report shall be submitted to the 1989 legislature twenty days prior to the convening of the 1989 regular session."

(164) By adding a new section to read as follows:

"SECTION 202B. Provided that of the general fund appropriation for institutional support, university of Hawaii, systemwide support, (UOH 903), the sum

of \$40,000 in fiscal year 1988-89 shall be expended by an independent consultant to conduct a study on the feasibility of establishing the community colleges as a separate entity reporting directly to the university of Hawaii board of regents; provided further that the independent consultant shall be chosen by the university of Hawaii board of regents; provided further that a report of the results of this study shall be submitted to the legislature twenty days prior to the convening of the 1989 regular session."

(165) By adding a new section to read as follows:

"SECTION 205A. Provided that of the general fund appropriation for community college systemwide support (UOH 906), the sum of \$3,462,440 in fiscal year 1988-89 shall be expended for the following nonrecurring repair and maintenance projects:

<u>Program ID</u>	<u>Project Description</u>	<u>FY 1988-89</u>
UOH 505	Install fire protection system, building 232	\$ 24,700
UOH 325	Clean air conditioning air handlers and vents in all buildings	82,000
UOH 325	Refloor buildings 880, 886, 883 and 884	119,400
UOH 305	Relocate air compressor, building 814	76,700
UOH 305	Improve campus exterior lighting	136,500
UOH 315	Repair air conditioning, building 857	135,000
UOH 315	Repair air conditioning, building 858	16,300
UOH 505	Replace air conditioning, building 223	9,700
UOH 505	Reroof building 205	44,500
UOH 505	Reroof building 215	38,300
UOH 505	Replace roof and gutters, building 208	62,300
UOH 325	Reroof building 884	135,200
UOH 315	Repair roof vents, buildings 916, 917 and 918	30,000
UOH 305	Reroof building 806	92,000
UOH 605	Repair metal roof, building 453	180,200
UOH 605	Repair metal, asphalt roofs and gutters, building 465	155,200
UOH 605	Repair asphalt roofs and gutters, buildings 455, 459a, 454, 463b, 456a, 456b, 466, 467 and 459b	123,900
UOH 605	Repair metal, asphalt roofs and gutters, building 469	82,140
UOH 605	Repaint metal roof and gutters, buildings 463c, 463a, 464, 458, 468	595,500
UOH 505	Renovate restrooms, buildings 208 and 215	27,900
UOH 906	Repair and renovate Dole Street	196,000
UOH 315	Repair and renovate buildings 924	308,300
UOH 335	Modify buildings for acoustics, Haloa, 976 and Iolani, 981	42,600
UOH 505	Renovate library buildings 224	
UOH 505	Renovate library building 224	183,900

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UOH 505	Resurface main parking lot	246,300
UOH 505	Replace light fixtures, buildings 201 and 203	31,300
UOH 505	Construct transformer vault, building 232	5,900
UOH 505	Replace jalousie hardware, buildings 207, 208, 215, 216, 217, 219, 220, 226, 231, 232 and 223	246,200
UOH 505	Repaint interior, building 232	34,500

to establish and implement a cyclical schedule of repair and maintenance of grounds and facilities within the fiscal biennium 1987-89; provided further that in the implementation of this requirement, the university of Hawaii may use its present staff, student help, and other such temporary personnel pursuant to section 76-16, Hawaii Revised Statutes; and unless otherwise prohibited by law, the university of Hawaii may make expenditures and enter into contracts for necessary equipment, supplies, materials, labor, professional services, and technical assistance to satisfy the objectives of this appropriation; provided further that unrequired funds from the repair and maintenance projects authorized under the terms of this section may be expended for other institutional repair and maintenance needs; provided further that the chancellor of community colleges shall submit a status report of each of these repair and maintenance projects and expenditures to the legislature twenty days prior to the convening of the 1989 regular session."

(166) By adding a new section to read as follows:

"SECTION 206A. Provided that of the general fund appropriation for community college systemwide support (UOH 906), \$50,000 in fiscal year 1988-89 shall be used to fund a minority student program."

(167) By adding a new section to read as follows:

"SECTION 207A. Provided that the university of Hawaii shall coordinate the preparation of a comprehensive study and plan for the future of telecommunications and computer related academic, administrative, and instructional support programs in the university of Hawaii system; provided further that the university shall submit a report of its findings and recommendations to the legislature twenty days prior to the convening of the 1989 regular session."

(168) By adding a new section to read as follows:

"SECTION 207B. Provided that the university of Hawaii, community college system and all associated agencies shall conduct a study to evaluate the cost effectiveness of a centralized maintenance contract or self maintenance program for microcomputers, minicomputers, and their associated peripheral equipment, to include peripheral equipment to mainframe computers; provided further that this study shall consider the establishment of an effective inventory control system; provided further that a report of the study containing recommendations shall be submitted to the legislature twenty days prior to the convening of the 1989 regular session."

(169) By adding a new section to read as follows:

"SECTION 210A. Provided that of the general fund appropriation for Hawaii public broadcasting (CCA 701), the sum of \$15,000 in fiscal year 1988-89 shall be used to augment private contributions for an exchange program with the Liaoning provincial television system of the People's Republic of China."

(170) By adding a new section to read as follows:

“SECTION 210B. Provided that of the general fund appropriation for Hawaii public broadcasting (CCA 701), the sum of \$405,000 in fiscal year 1988-89 shall be used for an increase in staffing and also for expansion of programming in the science and natural history, and children’s programming areas.”

(171) By adding a new section to read as follows:

“SECTION 210C. Provided that of the general fund appropriation for the Hawaii public broadcasting (CCA 701), the sum of \$125,000 in fiscal year 1988-89 shall be used to initiate a state-wide inventory of Hawaii’s moving image materials.”

(172) By adding a new section to read as follows:

“SECTION 210D. Provided that of the general fund appropriation for Hawaii public broadcasting (CCA 701), the sum of \$129,000 in fiscal year 1988-89 shall be used to continue documentation of the social, political and humanistic elements of Hawaii through the use of video tape and film for the moving images project.”

(173) By amending Section 211 to read as follows:

“SECTION 211. Provided that of the general fund appropriation for performing and visual arts events (AGS 881), the sum of \$1,965,845 in fiscal year 1987-88 and \$2,015,845 in fiscal year 1988-89 shall be used for purchase of service; provided further that of the federal funds authorized, the sum of \$390,720 in fiscal year 1987-88 and \$390,720 in fiscal year 1988-89 shall be used for purchase of service.

(174) By amending Section 212 to read as follows:

“SECTION 212. Provided that of the general fund appropriation for performing and visual arts events (AGS 881), the sum of \$1,525,000 in fiscal year 1987-88 and \$2,509,626 in fiscal year 1988-89 shall be used for grants-in-aid.”

(175) By adding a new section to read as follows:

“SECTION 212A. Provided that of the general fund appropriation for performing and visual arts events (AGS 881), the sum of \$375,000 in fiscal year 1988-89 shall be used for Hawaii’s participation at the annual Smithsonian Institution’s 1989 festival of American folklore; provided further that funds shall not be made available under this Act unless matched on a dollar-for-dollar basis by private contributions.”

(176) By adding a new section to read as follows:

“SECTION 212B. Provided that of the general fund appropriation for performing and visual arts events (AGS 881), the sum of \$50,000 in fiscal year 1988-89 shall be used by the state foundation on culture and the arts to sponsor or subsidize various special events; provided further that the state foundation on culture and the arts shall prepare and submit a report detailing the first six months’ expenditures and the anticipated expenditures for fiscal year 1988-89 to the legislature twenty days prior to the convening of the 1989 regular session.”

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(177) By adding a new section to read as follows:

“SECTION 212C. Provided that of the general fund appropriation for performing and visual arts events (AGS 881), the sum of \$25,000 in fiscal year 1988-89 shall be used by the state foundation on culture and the arts for the individual artist fellowship; provided further that the state foundation on culture and the arts shall prepare and submit a report detailing the first six months' expenditures and the anticipated expenditures for fiscal year 1988-89 to the legislature twenty days prior to the convening of the 1989 regular session.”

(178) By adding a new section to read as follows:

“SECTION 212D. Provided that of the general fund appropriation for performing and visual arts events (AGS 881), the sum of \$1,352,000 in fiscal year 1988-89 shall be used for subsidy.”

(179) By adding a new section to read as follows:

“SECTION 214A. Provided that of the general fund appropriation for heritage and recreation parks (LNR 806), the sum of \$81,102 in fiscal year 1988-89 shall be used to provide security for the Iolani Palace.”

(180) By adding a new section to read as follows:

“SECTION 214B. Provided that of the general fund appropriation for heritage and recreation parks (LNR 806), the sum of \$39,565 in fiscal year 1988-89 shall be used to maintain the Kealakekua bay state park lands.”

(181) By adding a new section to read as follows:

“SECTION 214C. Provided that of the general fund appropriation for the heritage and recreation parks (LNR 806), the sum of \$7,000 in fiscal year 1988-89 shall be used for the rental of restroom facilities at Kaimu beach, Kalapana.”

(182) By adding a new section to read as follows:

“SECTION 214D. Provided that of the general fund appropriation for heritage and recreation parks (LNR 806), the sum of \$386,802 in fiscal year 1988-89 shall be used for grants-in-aid.”

(183) By adding a new section to read as follows:

“SECTION 215A. Provided that the department of transportation shall conduct a study to identify the problems caused by wave action in the Waianae small boat harbor; provided further that the department of transportation shall prepare a report detailing recommendations for corrective action to ensure the safety of boaters and to minimize property damage to be submitted to the legislature twenty days prior to the convening of the 1989 regular session.”

(184) By amending Section 216 to read as follows:

“SECTION 216. Provided that of the general fund appropriation for general administration (DOC 903), the sum of \$109,320 in fiscal year 1987-88 and \$109,320 in fiscal year 1988-89 shall be expended for the youth development project.”

(185) By amending Section 218 to read as follows:

“SECTION 218. Provided that of the positions and funds authorized to the department of corrections for the following correctional facilities: juvenile correctional facility (DOC 401), Halawa correctional facility (DOC 402), Kulani correctional facility (DOC 403), Waiawa correctional facility (DOC 404), Hawaii community correctional center (DOC 405), Maui community correctional center (DOC 406), Oahu community correctional center (DOC 407), Kauai community correctional center (DOC 408), and women’s community correctional center (DOC 409), the department shall transfer, with the approval of the governor, or the director of finance if so delegated by the governor, positions and position-related expenses as well as funds for other current expenses and equipment related to the care, supervision, and maintenance (provisions, training, educational, and medical care) of inmates between correctional facilities; provided further that such transfer shall be based upon corresponding estimates of inmate transfers between each affected correctional facility; provided further that such transfers of positions and funds may also be made to enhance the equity of resources due to population changes within the facilities; and provided further that an action plan shall be developed by the department of corrections prior to any transfers or requests for transfers to ensure the systematic and appropriate deployment of inmates and staff. The action plan shall include, but not be limited to: the current and projected inmate population for each facility, the current and projected resource needs of each facility based upon any changes in population, the security requirements of each facility, and staffing and resource ratios for each facility based upon current and projected inmate population; provided further that the department of corrections shall submit the action plan and report of all transfers of inmates, positions, position-related expenses, and other resources to the legislature twenty days prior to the convening of the 1989 regular session.”

(186) By adding a new section to read as follows:

“SECTION 218A. Provided that of the general fund appropriation for Kulani correctional facility (DOC 403), the sum of \$117,196 in fiscal year 1988-89 shall be used for a vocational education program.”

(187) By adding a new section to read as follows:

“SECTION 218B. Provided that of the general fund appropriation for Kulani correctional facility (DOC 403), the sum of \$38,755 in fiscal year 1988-89 shall be used for purchase of service.”

(188) By amending Section 222 to read as follows:

“SECTION 222. Provided that of the general fund appropriation for Oahu community correctional center (DOC 407), the sum of \$855,547 in fiscal year 1987-88 and \$937,305 in fiscal year 1988-89 shall be used for purchase of service.”

(189) By adding a new section to read as follows:

“SECTION 226A. Provided that of the general fund appropriation for the department of corrections, general administration (DOC 903), the sum of \$50,000 in fiscal year 1988-89 shall be expended for special repair and maintenance projects statewide to ensure compliance with health and safety standards to include but not be limited to: water tank and pump repairs, sewer repairs, and repairs for fire safety;

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provided further that funds may be expended for replacement or renovation of current equipment or systems, water or sewer lines, or for additional equipment, if required; provided further that the department of corrections shall submit a report of all special repair and maintenance projects twenty days prior to the convening of the 1989 regular session.”

(190) By adding a new section to read as follows:

“SECTION 226B. Provided that the positions transferred from the state intake service centers to general administration (DOC 903) shall be specifically responsible for administering and overseeing the intake service centers in the various counties, and that those administrators transferred into the department’s general administration shall maintain the same general scope of authority and responsibility concerning intake service center affairs that they held previously.”

(191) By adding a new section to read as follows:

“SECTION 226C. Provided that the department of corrections shall conduct a review and study of the long term placement, roles, and functions of the state intake service centers within the state correctional and criminal justice system; provided further that in conducting this review and study, the department shall consult with corrections personnel, intake service center administrators and employees, and other criminal justice agencies; provided further that the department shall report back to the legislature on its findings and recommendations twenty days prior to the convening of the 1989 regular session.”

(192) By adding a new section to read as follows:

“SECTION 227A. Provided that of the general fund appropriation for state criminal justice information and identification (ATG 231), the sum of \$3,000 in fiscal year 1988-89 shall be used to perform criminal history record checks.”

(193) By adding a new section to read as follows:

“SECTION 227B. Provided that the state criminal justice information and identification program (ATG 231) shall be the subject of a study by the legislative auditor for the purpose of recommending a coordinated plan of action for implementing and integrating existing and future criminal justice information systems, including the program’s need for a dedicated computer; provided further that the study shall include other existing, developing and planned criminal justice information systems of the state and counties to determine the operational effectiveness of each program and their interrelationships with each other and to the offender-based transaction statistics/computerized criminal history (OBTS/CCH) system; provided further that the report to the 1989 regular session may include a review of such other areas as the legislative auditor determines to be appropriate for the improvement of the statewide criminal justice information system.”

(194) By adding a new section to read as follows:

“SECTION 227C. Provided that of the general fund appropriation for prevention of natural disasters (LNR 810), the sum of \$500,000 in fiscal year 1988-89 shall be used for:

1. Planning, engineering, and removal of excessive vegetation from Kawai Nui marsh, for improvement in flood control for the people of Kailua, Oahu, and for the implementation of the objectives and policies of the State's resource management plan for Kawai Nui marsh; and,
2. Cleaning the streambeds of Kahawai and Waimanalo streams in Waimanalo.

Provided further that a progress and expenditure report shall be submitted to the legislature twenty days prior to the convening of the 1989 regular session.

(195) By adding a new section to read as follows:

“SECTION 233A. Provided that of the general fund appropriation for legal assistance in criminal actions (BUF 151), the sum of \$257,234 in fiscal year 1988-89 shall be used for purchase of a statewide automation system to maximize the resources of the office of the public defender.”

(196) By amending Section 235 to read as follows:

“SECTION 235. Except as otherwise provided, the appropriation for the office of the governor (GOV 100) shall be expended at the discretion of the governor. Provided further, that the administrative director shall be authorized to expend \$10,000 in fiscal year 1988-89 for protocol expenses.”

(197) By adding a new section to read as follows:

“SECTION 247A. Provided that of the general fund appropriation for the department of budget and finance-program planning, analysis, and budgeting (BUF 101), the sum of \$250,000 in fiscal year 1988-89 shall be expended for a comprehensive management study of the State's tourism program and the Hawaii visitors bureau to include but not be limited to: organizational and financial analysis, assessment of the existing planning and management structure and staffing, analysis of the coordination and funding of tourism related research and data base activities, analysis of the coordination and funding of tourism related advertising and promotion, review and evaluation of the department of business and economic development's strategic plan for tourism, the Hawaii visitors bureau's tourism marketing plan, and the State tourism functional plan, recommendations for a revised State tourism plan to include the possible organizational and functional integration of the Hawaii visitor bureau with the State tourism office, and a cost-benefit analysis of the State's expenditure during the past two fiscal years for the tourism program.”

(198) By adding a new section to read as follows:

“SECTION 247B. Provided that of the general fund appropriation for program planning, analysis and budgeting (BUF 101), the sum of \$260,000 in fiscal year 1988-89 shall be expended for a Hawaii Young Scholars program; provided further that of the sum appropriated for the Hawaii Young Scholars program, the sum of \$190,000 shall be expended for a Summer Scholars Abroad program to provide grants up to \$5,000 each to selected public high school students to study in a foreign country and the sum of \$70,000 shall be expended for an International Scholars program to provide grants up to \$10,000 each to selected public high school graduates to pursue college-level studies for one year in a foreign country within a period of seven years from graduation; provided further that pursuant to procedures provided by the superintendent of education, each public high school shall select one student for the Summer Scholars Abroad program and shall nominate one graduating senior for the International Scholars program; provided further that

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a selection board established by the superintendent of education and drawn from the University of Hawaii and the East-West Center shall review the nominations, and using selection criteria developed and provided by the superintendent, the selection board shall select seven International Scholars, one from each school district; provided further that the department of budget and finance shall inform the selected Hawaii Young Scholars of the procedures for receiving the grants; provided further that the amounts for grants for the selected Hawaii Young Scholars which are not expended by June 30, 1989, but which are to be expended after that date shall be encumbered as of June 30, 1989; provided further that beginning with the 1989-1991 fiscal biennium, funds for the Hawaii Young Scholars program shall be included in the executive budget.”

(199) By adding a new section to read as follows:

“SECTION 249A. Provided that of the general fund appropriation for state-wide plan and coordination (GOV 103), the sum of \$150,000 in fiscal year 1988-89 shall be used for the development of a comprehensive Hawaii exclusive economic zone (EEZ) program; provided further that a report addressing emerging issues related to the management, protection, conservation, and research and development of the Hawaii exclusive economic zone shall be submitted to the legislature twenty days prior to the convening of the 1989 regular session.”

(200) By adding a new section to read as follows:

“SECTION 249B. Provided that of the general fund appropriation for state-wide plan and coordination (GOV 103), the sum of \$50,000 in fiscal year 1988-89 shall be used to assess the need for establishing satellite state offices in suburban and rural communities on Oahu; provided further that the office of state planning shall submit a report of the findings and recommendations regarding the need for satellite government services in suburban and rural areas to the legislature twenty days prior to the convening of the 1989 regular session.”

(201) By adding a new section to read as follows:

“SECTION 249C. Provided that of the general fund appropriation for the office of state planning (GOV 103), the sum of \$10,000 in fiscal year 1988-89 shall be used by the director of the office of state planning for protocol purposes.”

(202) By amending Section 252 to read as follows:

“SECTION 252. Provided that of the general fund appropriation for the office of the governor-other policy development and coordination (GOV 102), the sum of \$50,000 in fiscal year 1987-88 and \$75,000 in fiscal year 1988-89 shall be used for research and control of anthurium blight or bleach; provided further that the funds shall be expended by the governor’s agriculture coordinating committee.”

(203) By adding a new section to read as follows:

“SECTION 253A. Provided that of the general fund appropriation for the office of the governor-other policy development and coordination (GOV 102), the sum of \$40,000 in fiscal year 1988-89 shall be used to expand the pesticide applicator training program to include development of training modules and continuing education programs; provided further that these funds shall be expended by the governor’s agriculture coordinating committee.”

(204) By adding a new section to read as follows:

“SECTION 253B. Provided that of the general fund appropriation for the office of the governor-other policy development and coordination (GOV 102), the sum of \$150,000 in fiscal year 1988-89 shall be used for research on the production of coffee; provided further that \$50,000 in fiscal year 1988-89 shall be used as seed money for creation of a kona coffee federal marketing order; provided further that \$35,000 in fiscal year 1988-89 shall be used to continue alternate crop research with emphasis on saline water irrigation; provided further that \$35,000 in fiscal year 1988-89 shall be used to conduct a demonstration/development project for a solar tropical fruit drying project; provided further that \$20,000 in fiscal year 1988-89 shall be used for statewide farm-oriented marketing training; provided further that \$37,500 in fiscal year 1988-89 shall be used for the development of a long-term marketing plan for dendrobium orchids; provided further that these funds shall be expended by the governor’s agriculture coordinating committee.”

(205) By adding a new section to read as follows:

“SECTION 253C. Provided that of the general funds appropriation for the office of the governor-other policy development and coordination (GOV 102), the sum of \$262,500 in fiscal year 1988-89 shall be used for the development and marketing of new crops and agricultural products as follows: (1) \$90,000 shall be used for research on papaya by-products as animal feed; (2) \$4,800 shall be used for a study on the use of ragon in animal feed as a means to control/eradicate fly problems; (3) \$167,700 shall be used for chinese tallow plant research; provided further that a progress report shall be submitted to the legislature twenty days prior to the convening of the 1989 regular session.”

(206) By adding a new section to read as follows:

“SECTION 254A. Provided that of the general fund appropriation for supporting services-revenue collection (TAX 107), the sum of \$954,473 in fiscal year 1988-89 shall be used to fund the general excise and transient accommodations tax redesign project; provided further that the department shall submit the system internal specifications for the GE/TAT system to budget and finance for review and approval; provided further that the department of taxation shall complete the update to the departmental distributed information processing and information resource management (DIPIRM) plan, and that the plan shall be reviewed and approved by the department of budget and finance in accordance with established policies and procedures; and provided further that the department shall submit the updated departmental DIPIRM plan to the legislature twenty days prior to the convening of the 1989 regular session.”

(207) By adding a new section to read as follows:

“SECTION 262A. Provided that of the general fund appropriation for the office of the attorney general (ATG 100), the sum of \$120,000 in fiscal year 1988-89 shall be used for vacation termination payouts for deputy attorney generals; provided further that all such funds appropriated not expended or encumbered as provided in this section shall lapse into the general fund.”

(208) By adding a new section to read as follows:

“SECTION 265A. Provided that of the general fund appropriation for electronic data processing services (BUF 131), the sum of \$900,000 in fiscal year 1988-

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89 shall be used to develop a microwave communication backbone; provided further that a status report shall be submitted to the legislature twenty days prior to the convening of the 1989 regular session; provided further that the status report shall include, but not be limited to: a detailed breakdown of expenditures for the first half of fiscal year 1988-89; estimated expenditures for the second half of fiscal year 1988-89, fiscal year 1989-90, and any future projected expenditures; and estimated date of completion.”

(209) By adding a new section to read as follows:

“SECTION 265B. Provided that of the general fund appropriation for electronic data processing services (BUF 131), the sum of \$200,000 in fiscal year 1988-89 shall be used for a feasibility study to determine the need for satellite communications, the technical alternatives, and the location of the uplink; provided further that a report of the study containing recommendations shall be submitted to the legislature twenty days prior to the convening of the 1989 regular session.”

(210) By adding a new section to read as follows:

“SECTION 265C. Provided that the electronic data processing division (BUF 131), shall coordinate the collection of information relating to all state department funds for computer equipment maintenance and repair; provided further that this information should include an accounting of maintenance contracts, and all other funds expended for the repair and maintenance of computers, or their peripheral equipment; provided further that this information shall be compiled no later than October 31, 1988.”

(211) By adding a new section to read as follows:

“SECTION 265D. Provided that the department of accounting and general services shall update its inventory lists for microcomputers, minicomputers, and their peripheral equipment, to include expansion-type cards; provided further that this list shall accurately reflect the number and type of computer and peripheral equipment currently held by the State; provided further that these updated lists shall be submitted to the electronic data processing division (BUF 131) by October 31, 1988.”

(212) By adding a new section to read as follows:

“SECTION 265E. Provided that the department of budget and finance shall formulate a summary of electronic-data-processing-related program requests, by department and program id, to include the amount requested for the fiscal biennium 1989-91; provided further that the electronic data processing division (BUF 131) shall coordinate the preparation and submission of these requests, and all updated departmental plans for distributed information processing and information resource management in accordance with the state master plan for DIPIRM; provided further that the summary and plans shall be submitted to the legislature twenty days prior to the convening of the 1989 regular session.”

(213) By adding a new section to read as follows:

“SECTION 266A. Provided that the department of budget and finance shall initiate a self-maintenance program to reduce the costs of microcomputer, terminal, printer, modem, and other peripheral equipment maintenance costs in accordance

with the conclusions reached by its study, "an assessment of the maintenance of end-user computer resources in the executive branch of Hawaii state government"; provided further that the department shall expand the scope of the aforementioned study to include an evaluation of the cost effectiveness of a self maintenance program for minicomputer systems and their peripheral equipment; provided further that the department shall submit a progress report, to include projections for full implementation, to the legislature twenty days prior to the convening of the 1989 regular session."

(214) By amending Section 269 to read as follows:

"SECTION 269. Provided that of the general fund appropriation for work force attraction, selection, classification and effectiveness (PER 102), the sum of \$9,309,120 in fiscal year 1987-88 and \$9,899,247 in fiscal year 1988-89 shall be expended to cover workers' compensation costs; provided further that notwithstanding any position ceiling, the governor may transfer positions and funds between existing programs of the state government to work force attraction, selection, classification and effectiveness (PER 102), for the purpose of implementing a centralized workers' compensation program; provided further that any positions or funds transferred shall be reported to the legislature twenty days prior to the 1989 regular session."

(215) By adding a new section to read as follows:

"SECTION 271A. Provided that of the general fund appropriation for construction (AGS 221), the sum of \$500,000 in fiscal year 1988-89 shall be used for rental of state office space for state agencies; provided further that the governor may transfer funds appropriated to any other agency for rental of office space to the department of accounting and general services for the purpose of centralizing the administration and expenses related to state office rentals."

(216) By adding a new section to read as follows:

"SECTION 271B. Provided that the department of accounting and general services shall conduct an appraisal and assessment of the Hawaii institute for management and analysis in government (HIMAG) facility. This appraisal and assessment shall include, but not be limited to:

1. An appraisal to determine the current market value of the property and structures,
2. A determination as to what is the current and future plans for this facility,
3. A feasibility study on the possible use of the HIMAG facility for state office space, and also consider other uses of the facility that may help to address the current shortage of state office space for state workers, and
4. The department's recommendation as to the best use for this facility.

Provided further that the department of accounting and general services shall submit a report of its findings and recommendations to the legislature twenty days prior to the 1989 regular session."

(217) By adding a new section to read as follows:

"SECTION 272A. Provided that of the general fund appropriation for communication (BUF 161), the sum of \$2,100,000 in fiscal year 1988-89 shall be used to implement a new voice communications system; provided further that a status

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report shall be submitted to the legislature twenty days prior to the convening of the 1989 regular session; provided further that the status report shall include, but not be limited to: a detailed breakdown of expenditures for the first half of fiscal year 1988-89; estimated expenditures for the second half of fiscal year 1988-89, 1989-90, and any future projected expenditures; and estimated date of completion."

(218) By amending Section 279 to read as follows:

"SECTION 279. Provided that of the general fund appropriation for grants-in-aid to counties (SUB 101), the sum of \$12,000,000 in fiscal year 1987-88, and the sum of \$20,000,000 in fiscal year 1988-89 shall be for the purpose of improvements to infrastructure and/or tourism-related activities; provided further that the funds shall be apportioned in each fiscal year of the biennium as follows:

	FY 1987-88	FY 1988-89
city and county of Honolulu	\$5,172,000	\$9,305,600
county of Maui	2,856,000	4,608,800
county of Hawaii	2,100,000	3,252,800
county of Kauai	1,872,000	2,832,800

(219) By adding a new section to read as follows:

"SECTION 279A. Provided that of the general fund appropriation for the city and county of Honolulu (SUB 201), the sum of \$1,036,600 in fiscal year 1988-89 shall be to reimburse the city and county of Honolulu for clean-up costs and repairs to the infrastructure incurred during the flooding which occurred December, 1987, to January, 1988."

(220) By adding a new section to read as follows:

SECTION 279B. Provided that the grants-in-aid to the city and county of Honolulu, the sum of \$3,000,000 in fiscal year 1988-89 shall be for plans, design, and construction of improvements to publicly and privately owned land on the eastern hillside of Manoa valley; provided further that the State shall be free of any and all liability for damage, loss, or claim as to real or personal property, or personal injury or death, or any other loss, as the result of planning, design, construction, maintenance, repair or any other act."

SECTION 6. Part IV, Act 216, Session Laws of Hawaii 1987, is amended:

(1) By amending Section 280 to read:

"SECTION 280. CAPITAL IMPROVEMENT PROJECTS AUTHORIZED. The sums of money appropriated or authorized in Part II of this Act for capital investment 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 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; provided 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 M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F

A. ECONOMIC DEVELOPMENT**BED102 - COMMERCE AND INDUSTRY****1. BDB-1 IRRADIATION FACILITY, HILO, HAWAII**

PLANNING, DESIGN, CONSTRUCTION AND EQUIPMENT FOR A COBALT 60 IRRADIATION FACILITY TO ASSIST ACTIVITIES INCLUDING AGRICULTURE, AQUACULTURE, MANUFACTURING AND PROCESSING.

PLANS	200		
CONSTRUCTION		800	
TOTAL FUNDING	BED	200 C	800 C

BED102 - COMMERCE AND INDUSTRY**2. FIB-1 FILMING FACILITY, OAHU**

PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT OF A FILMING FACILITY INCLUDING ON-SITE INFRASTRUCTURE, ROADWAY, PARKING AND BUILDING MODIFIED FOR A FILM STUDIO.

DESIGN	175		
CONSTRUCTION		6,500	
EQUIPMENT		520	
TOTAL FUNDING	BED	7,195	C

BED102 - COMMERCE AND INDUSTRY**3. HTDC-1 HAWAII OCEAN SCIENCE AND TECHNOLOGY PARK, KEAHOLE, KONA, HAWAII**

HIGH TECHNOLOGY PARK SITE FOR USE BY AQUACULTURE AND RELATED OCEAN SCIENCE INDUSTRIES. APPROXIMATELY 547 ACRES OF STATE LANDS LOCATED NEXT TO KEAHOLE AIRPORT AND THE NELH. LOT SIZES WILL RANGE FROM 3 TO 20 ACRES. UTILITIES, GRADING, WIDENING OF EXISTING ACCESS, AND CONSTRUCTION OF INTERNAL ROADS. PARK WILL ASSIST DEVELOPING INDUSTRIES, GENERATE JOBS AND STATE TAX REVENUES.

PLANS	1		
LAND		1	
DESIGN		57	
CONSTRUCTION		3,414	
EQUIPMENT		1	
TOTAL FUNDING	BED	3,474	C

BED102 - COMMERCE AND INDUSTRY**4. HTDC-2 MANOA INNOVATION CENTER**

FUTURE HOME OF PICHTR AND HTDC'S INCUBATOR FACILITY. ALSO, LOCATION OF THE RCUH AT THE SITE IS BEING CONSIDERED. CONSTRUCTION WILL INCLUDE ADJOINING TWO STORY STRUCTURES OF CONCRETE FRAME WITH CONCRETE BLOCKS OFFERING ADMINISTRATIVE AND LABORATORY SPACE.

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CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
	PLANS			1	25
	LAND			1	
	DESIGN			400	1
	CONSTRUCTION				6,625
	EQUIPMENT				250
	TOTAL FUNDING	BED		402 C	6,901 C

4A. HTDC-5 OCEAN OUTFALL AT KEAHOLE POINT

A 48" DIAMETER, 400' LONG, 15,000-20,000 GALLONS PER MINUTE OUTFALL PIPE TO RETURN OCEAN WATER.

PLANS				350
TOTAL FUNDING	BED		C	350 C

BED102 - COMMERCE AND INDUSTRY

5. P00042 MAUI RESEARCH AND TECHNOLOGY CENTER

PLANS, LAND, DESIGN, CONSTRUCTION AND EQUIPMENT FOR MAUI RESEARCH AND TECHNOLOGY PARK.

PLANS			50	
LAND				1
DESIGN			428	
CONSTRUCTION				5,600
EQUIPMENT				100
TOTAL FUNDING	BED		478 A	A
	BED		C	5,701 C

BED102 - COMMERCE AND INDUSTRY

6. P00043 HAWAII RESEARCH AND TECHNOLOGY PARK - U.H., HILO

DEVELOPMENT OF HAWAII RESEARCH AND TECHNOLOGY PARK.

PLANS			37	
DESIGN			38	1
CONSTRUCTION				997
EQUIPMENT				1
TOTAL FUNDING	AGS		75 A	A
	AGS		C	1,000 C

BED102 - COMMERCE AND INDUSTRY

7. P00044 MAUI ECONOMIC OPPORTUNITY FACILITY

PLANS FOR DEVELOPMENT. (FUNDS MAY BE DELEGATED TO THE COUNTY OF MAUI).

PLANS			50	
TOTAL FUNDING	COM		50 C	C

7A. SMALL BUSINESS INCUBATORS FOR MAUI, KAUAI, AND HAWAII.

PLANS, LAND, AND DESIGN OF SMALL BUSINESS INCUBATORS FOR MAUI, KAUAI, AND HAWAII.

PLANS			25	
LAND			1	
DESIGN				24

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		TOTAL FUNDING	BED	C	50 C

AGR121 - PLANT QUARANTINE

8. A-023 BURROWING NEMATODE NURSERY PROGRAM MIST EXTRACTION SYSTEM

RENOVATION AND ADDITION TO ACCOMMODATE A MIST EXTRACTION SYSTEM FOR NEMATODE CERTIFICATION OF NURSERY PLANT EXPORTS.

DESIGN	17	
CONSTRUCTION	108	
TOTAL FUNDING	125	C

AGR131 - ANIMAL QUARANTINE

9. A-022 ANIMAL QUARANTINE STATION IMPROVEMENTS

REROOF ANIMAL QUARANTINE OFFICE, MAINTENANCE, GARAGE AND STORAGE AREA, REPLACE POWER/LIGHT POLES, REPLACE PCB TRANSFORMERS, AND REPAIR VISITOR PARKING.

DESIGN	20	
CONSTRUCTION	160	
TOTAL FUNDING	180	C

AGR132 - ANIMAL DISEASE CONTROL

10. A-021 ANIMAL INDUSTRY LAB/OFFICE

REROOF.

DESIGN	11	
CONSTRUCTION	121	
TOTAL FUNDING	132	C

11. A-025 LIVESTOCK DISEASE CONTROL BUILDING CATTLE PENS/STORAGE AREAS

REROOF.

DESIGN	10	
CONSTRUCTION	119	
TOTAL FUNDING	129	C

AGR151 - DISTRIBUTION SYSTEMS IMPROVEMENT FOR AGR

12. A-024 RENOVATE COMMODITIES LABORATORY, OAHU

RENOVATE LABORATORY TO PROVIDE: STAINLESS STEEL COUNTERS AND SINKS; STORAGE CABINETS FOR GLASSWARE, REAGENTS AND EQUIPMENT; MICROSCOPE AND WEIGHING WORK AREAS; FEED SAMPLE PREPARATION AND STORAGE; OFFICE AREA & RECORD STORAGE; WATER, GAS & ELECTRICAL OUTLETS; APPROPRIATE LIGHTING; GARMENT STORAGE; & WASTE MATERIAL DISPOSAL TO IMPROVE THE EFFICIENCY, ACCURACY, & SAFETY OF THE PROCESSED FOODS AND FEED PROGRAMS.

DESIGN	8	
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CAPITAL IMPROVEMENT PROJECTS

ITEM NO.		CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		CONSTRUCTION			98	
		TOTAL FUNDING		AGS	106 C	C
13.		KAMUELA VACUUM COOLING PLANT, HAWAII				
		DESIGN AND CONSTRUCTION OF NEW REEFER ROOM.				
		DESIGN			25	
		CONSTRUCTION			225	
		TOTAL FUNDING		AGS	250 A	A
14.	P00002	KULA VACUUM COOLING PLANT, MAUI				
		PLANNING, DESIGN AND CONSTRUCTION OF BUILDING TO				
		HOUSE FORCED AIR COOLER AND ICE MACHINE.				
		PLANS			20	
		DESIGN			45	
		CONSTRUCTION			360	
		TOTAL FUNDING		AGS	425 A	A
		AGR192 - GENERAL ADMINISTRATION FOR AGR				
15.	A-M9	DOA FACILITY, MAUI				
		FACILITY TO HOUSE DOA PROGRAMS ON MAUI				
		DESIGN			9	
		CONSTRUCTION			1,347	
		EQUIPMENT			104	
		TOTAL FUNDING		AGS	1,442 A	A
				AGS	9 C	C
16.	A-020	CONSTRUCTION AND RENOVATIONS TO DOA				
		FACTORIES				
		VARIOUS CONSTRUCTION AND RENOVATION PROJECTS AT				
		DOA FACILITIES				
		DESIGN			10	
		CONSTRUCTION			90	
		TOTAL FUNDING		AGS	100 C	C
16A.	K00001	DOA FACILITY, KAUAI				
		RENOVATIONS TO DOA FACILITY ON KAUAI				
		DESIGN			3	
		CONSTRUCTION			25	
		TOTAL FUNDING		AGS	28 C	C
16B.	A01	AGRICULTURAL PARK SUBDIVISION, STATEWIDE				
		CONSTRUCTION OF ON AND OFF SITE IMPROVEMENTS FOR				
		DEVELOPMENT OF WAIMANALO AGRICULTURAL PARK,				
		PHASE II.				
		CONSTRUCTION			930	
		TOTAL FUNDING		LNR	C	C
16C.	M00001	MOLOKAI SLAUGHTERHOUSE				
		PLANS AND DESIGN FOR A SLAUGHTERHOUSE PACKING				
		PLANT ON MOLOKAI.				
		PLANS			10	
		LAND			40	
		TOTAL FUNDING		AGS	50 C	C

LNR153 - COMMERCIAL FISHERY AND AQUACULTURE

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F

17. C33 BAIT FISH HOLDING AND TRANSFER FACILITY, HILO,
HAWAII

PLANS, DESIGN, CONSTRUCTION AND APPURTENANCES OF
A DEMONSTRATION BAITFISH HOLDING AND TRANSFER
FACILITY.

CONSTRUCTION	125	C
TOTAL FUNDING	LNR	

BED120 - ENERGY DEVELOPMENT AND MANAGEMENT

17A. SE0-1 ENERGY CONSERVATION IN HOSPITALS SCHOOLS
AND PUBLIC BUILDINGS

DO AUDIT RECOMMENDATIONS BY MODIFYING
STRUCTURES AND ELEC/MECHANICAL SYSTEMS INCLD
RENOVATION ALTERATION & RETROFITS IN HOSPITALS
SCHOOLS & PUBLIC BLDG TO GET SIGNIF ENERGY
SAVINGS & LESS COSTLY OPERATIONS. THIS PROJECT IS
DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID
FINANCING OR REIMBURSEMENT.

PLANS	240	
DESIGN	230	
CONSTRUCTION	270	
EQUIPMENT	260	
TOTAL FUNDING	BED	C
	BED	N

BED120 - ENERGY DEVELOPMENT AND MANAGEMENT

18. AES775 ALTERNATE ENERGY DEMONSTRATION AND
COMMERCIALIZATION PROJECTS

PROGRAM TO PLAN DESIGN AND CONSTRUCT ALTERNATE
ENERGY FACILITIES TO DEMONSTRATE THE POTENTIAL OF
VARIOUS ALTERNATE ENERGY RESOURCES IN HAWAII
AND TO IMPLEMENT THE COMMERCIALIZATION OF
ECONOMICALLY FEASIBLE ALTERNATE ENERGY PROJECTS.
FUNDS MAY BE USED FOR ENERGY RELATED PROJECTS
AND MAY BE USED TO MATCH NON-STATE FUNDS.

PLANS	140	
LAND	1	
DESIGN	100	
CONSTRUCTION	140	
EQUIPMENT	19	
TOTAL FUNDING	BED	A

BED120 - ENERGY DEVELOPMENT AND MANAGEMENT

19. NELH08 NELH - KONA SEACOAST TEST FACILITY, HAWAII

INFRASTRUCTURE UPGRADES AND SITE IMPROVEMENTS -
UTILITY SYSTEM IMPROVEMENTS, SEAWATER
DISTRIBUTION AND TREATMENT SYSTEMS AND BEACH
PARK INFRASTRUCTURE.

PLANS	26	8
DESIGN	86	46
CONSTRUCTION	340	1,521

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CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		EQUIPMENT TOTAL FUNDING	BED	158 610 C	65 1,640 C
BED120 - ENERGY DEVELOPMENT AND MANAGEMENT					
20. P00045 PUNA GEOTHERMAL FACILITY - HGP - A POWER PLANT OVERHAUL					
REPLACE ROCK MUFFLER AND H2S ABATEMENT SYSTEM; OVERHAUL STEAMTURBINE AND COOLING TOWER.					
		DESIGN		35	10
		CONSTRUCTION		315	90
		TOTAL FUNDING	BED	350 A	100 A
BED120 - ENERGY DEVELOPMENT AND MANAGEMENT					
21. P00046 PUNA GEOTHERMAL FACILITY-EXPANSION OF PUNA RESEARCH CENTER					
Funds for EIS, rezoning permits and plans.					
		PLANS		125	25
		TOTAL FUNDING	BED	125 A	25 A
21A. GEOTHERMAL RESOURCE DEVELOPMENT, HAWAII					
Development of geothermal energy and to determine the size of Hawaii's geothermal reservoirs by conducting exploratory drilling.					
		CONSTRUCTION			3,000
		TOTAL FUNDING	BED	C	3,000 C
LNR141 - WATER DEVELOPMENT & IRRIGATION SERVICES					
22. G06 DRILLING KAU EXPLORATORY WELLS, HAWAII					
Plans, design and drilling of test holes and exploratory wells including casing and conducting pump tests.					
		PLANS		10	20
		LAND		20	30
		DESIGN		30	40
		CONSTRUCTION		490	900
		TOTAL FUNDING	LNR	550 C	990 C
23. G14 DRILLING KEEI NO. 4 WELL, SOUTH KONA, HAWAII					
Plans, design and drilling of a well, installing a casing and pump testing the well together with appurtenant and incidental work.					
		PLANS		10	
		LAND		20	
		DESIGN		35	
		CONSTRUCTION		715	
		TOTAL FUNDING	LNR	780 C	
24. G18 DRILLING POIPU EXPLORATORY WELL "E", KAUAI					
Plans, design, and drilling of an exploratory well including casing installation, pump testing and other incidental and appurtenant work.					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		PLANS		10	
		LAND		20	
		DESIGN		30	
		CONSTRUCTION		540	
		TOTAL FUNDING	LNR	600 C	C
25.	G21	DRILLING NORTH KONA EXPLORATORY WELL, HAWAII			
		PLANS, DESIGN AND DRILLING OF AN EXPLORATORY WELL, INSTALLING CASING AND PUMP TESTING TOGETHER WITH APPURtenant AND INCIDENTAL WORK.			
		PLANS		20	
		LAND		30	
		DESIGN		35	
		CONSTRUCTION		865	
		TOTAL FUNDING	LNR	950 C	C
26.	G86	WAIMEA IRRIGATION SYSTEM IMPROVEMENTS UPPER HAMAKUA DITCH, HAWAII			
		PLANS, DESIGN AND CONSTRUCTION FOR INCREMENTAL DEVELOPMENT, RENOVATION, AND REHABILITATION OF UPPER HAMAKUA DITCH FOR THE WAIMEA IRRIGATION SYSTEM			
		PLANS		20	
		LAND		20	
		DESIGN		220	
		CONSTRUCTION		1,400	
		TOTAL FUNDING	LNR	1,400 A	A
			LNR	260 C	C
				1,750 C	
27.	G94	WATER RESOURCES, DISTRICTS OF HAMAKUA AND WAIMEA, HAWAII			
		WATER RESOURCES, DISTRICTS OF HAMAKUA AND WAIMEA, HAWAII. PLANS, DESIGN AND DRILLING OF A WELL AND PUMP TESTING INCLUDING INCIDENTAL AND APPURtenant WORK.			
		PLANS		22	
		LAND		30	
		DESIGN		30	
		CONSTRUCTION		788	
		TOTAL FUNDING	LNR	870 C	C
27A.	G96	KUALAPUU RESERVOIR IMPROVEMENTS, MOLOKAI IRRIGATION SYSTEM, MOLOKAI			
		PLANS, DESIGN, AND CONSTRUCTING IMPROVEMENTS CONSISTING OF REHABILITATING RESERVOIR BANKS AND INSTALLING LINING AND WAVE DISSIPATORS			
		PLANS		20	
		DESIGN		30	
		CONSTRUCTION		340	
		TOTAL FUNDING	LNR	390 C	C
28.	J07	DEVELOPMENT OF TWO WAIKOLU VALLEY WELLS, MOLOKAI IRRIGATION SYSTEM, MOLOKAI			
		PLANS, DESIGN & CONSTRUCTION OF PUMP, CONTROLS, AND CONNECTING PIPE LINE FOR WAIKOLU WELLS FOR MOLOKAI IRRIGATION SYSTEM.			

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CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		PLANS		30	
		LAND		20	
		DESIGN		100	
		CONSTRUCTION		1,420	
		TOTAL FUNDING	LNR	1,570	A
29.	J08	TELEMETRY AND SUPERVISORY CONTROL SYSTEM FOR MOLOKAI IRRIGATION SYSTEM, MOLOKAI			A
		PLAN, DESIGN AND INSTALLATION OF IMPROVEMENTS TO EXISTING TELEMETRETING SYSTEM AND TO CONSTRUCT A SUPERVISORY CONTROL SYSTEM FOR THE MOLOKAI IRRIGATION SYSTEM.			
		PLANS		15	
		DESIGN		35	
		CONSTRUCTION		395	
		EQUIPMENT		15	
		TOTAL FUNDING	LNR	460	C
	30.	J09 WAIAHAE WELL NO. 2 WAIAHAE OAHU			C
		PLANS, DESIGN AND CONSTRUCTION OF THE DRILLING AND DEVELOPMENT OF A SECOND WELL IN WAIAHAE VALLEY OAHU			
		PLANS		10	
		LAND		20	
		DESIGN		40	
		CONSTRUCTION		520	
		TOTAL FUNDING	LNR	590	C
	31.	J13 WAIMANALO IRRIGATION SYSTEM IMPROVEMENTS KOOAUPOKO, OAHU			C
		PLANS, DESIGN AND CONSTRUCTION OF IMPROVEMENTS TO THE WAIMANALO IRRIGATION SYSTEM CONSISTING OF A 60 MG RESERVOIR AND A CLOSED PRESSURIZED DISTRIBUTION PIPELINE AS OUTLINED IN THE WAIMANALO WATERSHED PLAN AND AS AUTHORIZED UNDER PL-566 FOR MATCHING FEDERAL FUNDS.			
		PLANS		50	
		LAND		50	
		DESIGN		100	
		CONSTRUCTION		4,025	
		TOTAL FUNDING	LNR	4,225	A
			LNR		C
	32.	J19 KAWAIHAE EXPLORATORY WELL DRILLING AND DEVELOPMENT, HAWAII			C
		PLANS, DESIGN AND CONSTRUCTION FOR DRILLING AN EXPLORATORY WELL APPROXIMATELY 1100 FEET DEEP WITH CASING AND DEVELOPMENT OF WELL CONSISTING OF PUMP, CONTROLS AND PIPELINE TOGETHER WITH APPURTENANT AND INCIDENTAL WORK.			
		PLANS		25	
		LAND		20	
		DESIGN		30	
		CONSTRUCTION		40	
		TOTAL FUNDING	LNR	855	
			LNR	930	C
	33.	J22 DRILLING MAKAKILO EXPLORATORY WELL, OAHU			C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		PLANS, DESIGN AND DRILLING OF AN EXPLORATORY WELL INCLUDING INCIDENTAL AND APPURTEMENT WORK.			
		PLANS		10	
		LAND		35	
		DESIGN		20	
		CONSTRUCTION		335	
		TOTAL FUNDING	LNR	400	C
34.	J25	DRILLING WAIHEE EXPLORATORY WELL, MAUI			C
		PLANS, DESIGN AND DRILLING OF AN EXPLORATORY WELL AND PUMP TESTING INCLUDING INCIDENTAL AND APPURTEMENT WORK.			
		PLANS		10	
		DESIGN		35	
		TOTAL FUNDING	LNR	45	C
35.	G22	KULA WATER SYSTEM			C
		PLANS TO BE DEVELOPED ACCORDING TO UP COUNTRY WATER STUDY COMMITTEE PROPOSALS. CONSTRUCTION OF IMPROVEMENTS TO THE UP COUNTRY WATER SYSTEM, KULA. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.			
		PLANS		100	
		DESIGN		400	
		CONSTRUCTION			3,000
		TOTAL FUNDING	LNR	500	C
35A.		MILOLII VILLAGE			3,000 C
		CONSTRUCTION OF WATER WELLS, WATER DESALINATION, STORAGE TANKS, WATER LINES AND ANY NECESSITIES TO PROVIDE WATER FOR MILOLII RESIDENTS IN FULFILLMENT OF HEALTH REQUIREMENTS BY THE DOH.			
		CONSTRUCTION			200
		TOTAL FUNDING	LNR		C
35B.		PUU PULEHU RESERVOIR, HAWAII			200 C
		CONSTRUCTION OF IMPROVEMENTS TO PUU PULEHU RESERVOIR, HAWAII.			
		CONSTRUCTION			900
		TOTAL FUNDING	LNR		C
					900 C

C. TRANSPORTATION FACILITIES

TRN102 - HIA FACILITIES & SVCS

I. A10 HIA ROADWAYS AND PARKING

DESIGN & CONSTRUCT ROADS & PARKING AREAS INCLUDING GROUND AND ELEVATED STRUCTURES AND EXIT PLAZA FOR OVERSEAS AND INTER-ISLAND TERMINALS AND SUPPORT AREAS. ALTERATIONS TO EXISTING ROADS AND PARKING FACILITIES AND OTHER MISC IMPROVEMENTS. NEW PARKING STRUCTURE. RELOCATE EXISTING TENANTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING 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 1987-88 F	FISCAL M YEAR O 1988-89 F
		DESIGN		1,000	900
		CONSTRUCTION		5,400	7,000
		TOTAL FUNDING	TRN	5,900 E 500 N	7,900 E N

2. A11 HIA INTERISLAND COMPLEX

DESIGN & CONSTRUCT INTERISLAND COMPLEX INCLUDING BUILDINGS, APRONS AND TAXIWAYS, ROADWAYS, PARKING AND OTHER MISC IMPROVEMENTS. LAND ACQUISITION. RELOCATE EXISTING INTERISLAND MAINTENANCE, CARGO AND ADMIN OFFICES. ALTERATIONS TO EXISTING BLDGS APRONS, ROADWAYS AND PARKING. INSTALL FURNITURE, LANDSCAPING, AND MISC EQUIPMENT. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.

DESIGN		4,000	6,400
CONSTRUCTION		26,000	22,000
TOTAL FUNDING	TRN	5,000 B TRN 23,500 E TRN 1,500 N	5,000 B 22,300 E 1,100 N

3. A23 HIA AIRFIELD IMPROVEMENTS

DESIGN & CONSTRUCT IMPROVEMENTS TO AIRFIELD FACILITIES INCLUDING TAXIWAYS, RUNWAYS, SIGNS, ENGINE RUN UP PAD, SERVICE ROADS, SAFETY AREAS, LIGHTING SYSTEMS, EMERGENCY GENERATOR, AND OTHER MISC IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.

DESIGN		200	200
CONSTRUCTION		2,000	
TOTAL FUNDING	TRN	200 E TRN N	2,000 E 200 N

4. A37 AIRPORT SYSTEMS IMPROVEMENTS

DESIGN & CONSTRUCT SYSTEM IMPROVEMENTS INCLUDING ENERGY MANAGEMENT, SIGNS, FLIGHT INFORMATION, FIRE ALARM, SECURITY, OPERATIONAL CONTROLS, LOADING BRIDGES, UTILITIES, RAMP AIR, AND FUELING. IMPROVE ENERGY EFFICIENCY AND OPERATIONAL EFFICIENCY AND OTHER MISC IMPROVEMENTS.

DESIGN		3,700	
CONSTRUCTION		9,000	10,000
TOTAL FUNDING	TRN	5,000 B TRN 7,700 E	5,000 B 5,000 E

5. A41 HIA TERMINAL MODIFICATIONS

DESIGN AND CONSTRUCT IMPROVEMENTS TO FACILITIES INCLUDING BUILDINGS, ROADS, PARKING, UTILITIES, AIRCRAFT PARKING APRONS, SIGNS, & LANDSCAPING. RELOCATE EXISTING TENANTS. PROJECTS FOR OPERATIONAL AND ENERGY EFFICIENCY, PASSENGER CONVENIENCE AND OTHER MISC IMPROVEMENTS.

DESIGN		6,300	2,500
CONSTRUCTION		31,000	22,000

CAPITAL IMPROVEMENT PROJECTS

APPROPRIATIONS
(IN 000'S)

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		TOTAL FUNDING	TRN	5,000 B 32,300 E	5,000 B 19,500 E
			TRN		

6. A43 SERVICE SUPPORT FACILITIES AT HIA

DESIGN AND CONSTRUCT SERVICE SUPPORT FACILITIES INCLUDING BUILDINGS, ROADS, PARKING, UTILITIES, LANDSCAPING, TELEPHONE, NON POTABLE WATER, LEASE LOTS, SERVICE COURT DEVELOPMENT, APRONS, TAXIWAYS, CARGO TERMINAL, GENERAL AVIATION FACILITIES, AIRCRAFT MAINTENANCE FACILITIES, AIR TAXI FACILITIES, AIRCRAFT FUELING FACILITIES, HELICOPTER FACILITIES, AIR MUSEUM, AVIONIC SCHOOL, AND OTHER MISC IMPROVEMENTS.

DESIGN	610	3,650
CONSTRUCTION	5,800	13,500
TOTAL FUNDING	TRN	B
	TRN	3,500 B
	TRN	6,210 E
	TRN	13,450 E
	200 N	200 N

TRN114 - KE-AHOLE AIRPORT FACILITIES AND SERVICES

7. C03 KEAHOLE AIRPORT IMPROVEMENTS

DESIGN & CONSTRUCT IMPROVEMENTS TO FACILITIES INCLUDING BUILDINGS, ROADS, PARKING, APRONS, RUNWAYS, TAXIWAYS, AND UTILITIES. ALTERATIONS TO EXISTING FACILITIES AND RELOCATION OF TENANTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.

DESIGN	1,200	
CONSTRUCTION	6,000	5,000
TOTAL FUNDING	TRN	E
	TRN	500 N

8. C10 KEAHOLE AIRFIELD IMPROVEMENTS

DESIGN & CONSTRUCT IMPROVEMENTS TO AIRFIELD INCLUDING RUNWAY TAXIWAYS, SERVICE ROADS. WORK INCLUDES SITWORK, PAVING, PAINTING, ELECTRICAL, STRENGTHEN EXISTING PAVEMENT, ALTERATION OR RELOCATION OF EXISTING FACILITIES, AND OTHER MISCELLANEOUS IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.

DESIGN	900	
TOTAL FUNDING	TRN	E

9. CIVIL AIR PATROL, HANGAR.

DESIGN AND CONSTRUCTION FOR HANGAR TRAINING FACILITIES.

DESIGN	25	
CONSTRUCTION	225	
TOTAL FUNDING	AGS	C

TRN131 - KAHULUI AIRPORT FACILITIES AND SERVICES

10. D04 KAHULUI AIRPORT EXPANSION

DESIGN AND CONSTRUCT ADDITIONS & ALTERATIONS TO BLDGS, ROADS & PARKING, APRONS, NEW TERMINAL,

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		TAXIWAYS, RUNWAYS, LANDSCAPING, FURNITURE, SITEWORK, CARGO TERMINAL, OFFSITE DRAINAGE, RELOCATE CONTROL TOWER, RELOCATE TENANTS AND OTHER MISC IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.			
		DESIGN		3,000	1,000
		CONSTRUCTION		7,000	22,800
		TOTAL FUNDING	TRN	3,000 B	5,000 B
			TRN	6,000 E	17,800 E
			TRN	1,000 N	1,000 N

11. D08 SERVICE SUPPORT FACILITIES AT KAHULUI AIRPORT

DESIGN & CONSTRUCT BUILDINGS, ROADS, PARKING, APRONS, TAXIWAYS, LEASE LOTS, CARGO TERMINAL, HELIPADS AND OTHER MISC IMPROVEMENTS. RELOCATION OF EXISTING TENANTS.

DESIGN	250		
CONSTRUCTION	1,000		1,500
TOTAL FUNDING	TRN	1,250 E	1,500 E

12. D10 KAHULUI AIRFIELD IMPROVEMENTS

DESIGN AND CONSTRUCT EXTENSION TO EXISTING RUNWAY & TAXIWAYS INCLUDING SITEWORK, PAVING, PAINTING, ELECTRICAL, STRENGTHEN EXISTING PAVEMENT, ALTERATION OR RELOCATION OF EXISTING FACILITIES AND OTHER MISCELLANEOUS IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.

DESIGN	800		
TOTAL FUNDING	TRN	800 E	E

TRN141 - MOLOKAI AIRPORT FACILITIES AND SERVICES**13. D55 MOLOKAI AIRPORT IMPROVEMENTS**

DESIGN & CONSTRUCT BUILDINGS, ROADS, PARKING, APRONS, UTILITIES LANDSCAPING, MODIFICATIONS TO EXISTING FACILITIES, RELOCATION OF EXISTING TENANTS AND OTHER MISC IMPROVEMENTS.

DESIGN	200		
CONSTRUCTION	1,200		800
TOTAL FUNDING	TRN	1,400 E	800 E

TRN143 - KALAUPAPA AIRPORT FACILITIES AND SERVICES**13A. KALAUPAPA AIRPORT IMPROVEMENTS**

DESIGN & CONSTRUCTION FOR IMPROVEMENTS OF RUNWAY, ACCESS ROADS, TAXIWAYS, APRON AND THE EXISTING TERMINAL.

DESIGN	150		
CONSTRUCTION	850		
TOTAL FUNDING	TRN	B	1,000 B

TRN151 - LANAI AIRPORT FACILITIES AND SERVICES**13B. LANAI AIRPORT IMPROVEMENTS**

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
DESIGN & CONSTRUCTION FOR IMPROVEMENTS OF THE EXISTING TERMINAL & AIRPORT FACILITIES.					
		DESIGN			150
		CONSTRUCTION			850
		TOTAL FUNDING	TRN	B	1,000 B
13C.		LANAI AIRPORT EXPANSION			
MASTER PLAN TO EXPAND THE LANAI AIRPORT TO INCLUDE THE RUNWAY TO ACCOMMODATE FOR INCREASED TRAFFIC.					
		PLANS			150
		TOTAL FUNDING	TRN	B	150 B
TRN161 - LIHUE AIRPORT FACILITIES AND SERVICES					
14.	E03	LIHUE AIRPORT COMPLEX			
CONSTRUCT AIRPORT FACILITIES INCLUDING BUILDINGS, ROADS, PARKING, UTILITIES, AIRCRAFT APRONS, TAXIWAYS, RUNWAYS, CARGO TERMINAL, LEASE LOTS AND HANGARS, ALTERATION TO EXISTING FACILITIES INCLUDING BLDGS, AIRFIELD, ROADS, PARKING AND OTHER MISC IMPROVEMENTS. RELOCATION OF TENANTS AND MODIFICATIONS TO EXISTING FACILITIES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.					
		DESIGN		600	
		CONSTRUCTION		2,200	3,000
		TOTAL FUNDING	TRN	2,600 E	3,000 E
			TRN	200 N	N
15.	E10	LIHUE AIRFIELD IMPROVEMENTS			
DESIGN AND CONSTRUCT EXTENSION TO EXISTING RUNWAY & TAXIWAYS INCLUDING SITWORK, PAVING, PAINTING, ELECTRICAL, STRENGTHEN EXISTING PAVEMENT, ALTERATION OR RELOCATION OF EXISTING FACILITIES AND OTHER MISCELLANEOUS IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.					
		DESIGN			700
		TOTAL FUNDING	TRN	E	700 E
15A.		LIHUE AIRPORT CFR BUILDING, KAUAI			
DESIGN AND CONSTRUCT EITHER AN ATTACHED OR SEPARATE CFR BUILDING STRUCTURE TO HOUSE THE CFR TRUCK AND RELATED EQUIPMENT.					
		DESIGN			5
		CONSTRUCTION			95
		TOTAL FUNDING	TRN	B	100 B
TRN195 - AIR TRANSPORTATION FACILITIES & SVCS SUPPORT					
17.	F04	AIRPORT PLANNING STATEWIDE			
PROVIDE BASIC DATA AND INFORMATION FOR PROPER PLANNING, PRELIMINARY DESIGNS, SPECIAL					

ACT 390**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F	
		ENGINEERING, ARCHITECTURAL, ENVIRONMENTAL AND SPECIAL STUDIES FOR THE STATEWIDE SYSTEM OF AIRPORTS AND CONTINUE REVIEW AND UPDATING OF MASTER PLANS. FUNDS BUDGETED HEREIN SHALL NOT BE EXPENDED ON ACTIVITIES RELATED TO LIHUE AIRPORT RUNWAY EXPANSION. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.				
		PLANS		1,100		500
		TOTAL FUNDING	TRN	1,000 B	500 B	N
			TRN	100 N		
18.	F06	LAND ACQUISITION STATEWIDE				
		ACQUISITION OF LAND, AIRPORT FACILITIES AND LEASE RIGHTS FOR STATEWIDE AIRPORTS.				
		LAND		5,000		
		TOTAL FUNDING	TRN	5,000 E		E
19.	F08	AIRPORT IMPROVEMENTS STATEWIDE				
		MISCELLANEOUS IMPROVEMENTS TO VARIOUS AIRPORTS. IMPROVEMENTS FOR SAFETY AND CERTIFICATION REQUIREMENTS. IMPROVEMENTS TO FACILITIES AND IMPROVEMENTS FOR OPERATIONAL EFFICIENCY. PROVIDED THAT ANY IMPROVEMENTS TO PORT ALLEN AIRPORT SHALL NOT BE USED FOR IMPROVEMENTS TO LEASELOTS FOR HELICOPTERS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.				
		DESIGN		1,750		200
		CONSTRUCTION		3,500		4,700
		TOTAL FUNDING	TRN	4,250 E	4,400 E	
			TRN	1,000 N	500 N	
		TRN301 - HONOLULU HARBOR FACILITIES AND SERVICES				
20.	J02	IMPROVEMENTS TO FACILITIES AT PIERS 19 TO 34 AT HONOLULU HARBOR				
		CONSTRUCT TOILET FACILITIES IN PIER 27/28 SHED AND OTHER IMPROVEMENTS.				
		DESIGN		10		
		CONSTRUCTION		70		
		TOTAL FUNDING	TRN	80 B		B
21.	J03	MISCELLANEOUS IMPROVEMENTS TO FACILITIES HONOLULU HARBOR				
		MISCELLANEOUS IMPROVEMENTS TO PIERS, SHEDS, AND YARD FACILITIES AT HONOLULU HARBOR, INCLUDING IMPROVEMENTS TO LIGHTING, PAVING, AND OTHER FACILITIES.				
		DESIGN		30		35
		CONSTRUCTION		115		120
		TOTAL FUNDING	TRN	145 B	155 B	
22.	J06	CONTAINER FACILITIES AT SAND ISLAND				
		DEVELOPMENT OF SAND ISLAND CONTAINER YARD AREAS, PIERS, AND OTHER IMPROVEMENTS.				

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		DESIGN		100	300
		CONSTRUCTION		135	700
		TOTAL FUNDING	TRN	135 B	300 B
			TRN	100 E	700 E
23.	J20	IMPROVEMENTS TO PIERS 39-40 COMPLEX, HONOLULU HARBOR			
		ACQUISITION, PIER, YARD, AND SHED IMPROVEMENTS AT PIERS 39-40			
		LAND		2,613	
		DESIGN		80	320
		CONSTRUCTION		500	100
		TOTAL FUNDING	TRN	3,193 E	420 E
24.	J25	COMMERCIAL FISHERIES FACILITY DEVELOPMENT			
		RECONSTRUCT AND IMPROVE WOODEN PIER 18 OTHER IMPROVEMENTS.			
		DESIGN		70	
		CONSTRUCTION		430	C
		TOTAL FUNDING	TRN	500 C	
25.	J31	PIER 36 IMPROVEMENTS, HONOLULU HARBOR			
		CONSTRUCTION OF STORAGE YARD INCLUDING DEMOLITION, PAVING, LIGHTING AND OTHER IMPROVEMENTS.			
		DESIGN		50	
		CONSTRUCTION		380	
		TOTAL FUNDING	TRN	430 E	E
25A.	J32	INTRA-ISLAND FERRY SYSTEM, OAHU			
		DEVELOPMENT OF FACILITIES FOR INTRA-ISLAND FERRY BETWEEN MAUNALUA BAY AND HONOLULU HARBOR INCLUDING DREDGING, FILL, PIER, SHORESIDE FACILITIES AND OTHER IMPROVEMENTS.			
		DESIGN		120	
		CONSTRUCTION		1,460	
		TOTAL FUNDING	TRN	1,580 D	D
	TRN303	- BARBERS POINT HARBOR FACILITIES AND SERVICES			
26.	J11	BARBERS PT. DEEP DRAFT HARBOR IMPROVEMENTS, OAHU			
		INCREMENTAL DEVELOPMENT OF BARBER'S POINT HARBOR INCLUDING PIER, YARD AND SHED FACILITIES, UTILITIES, AND OTHER IMPROVEMENTS.			
		DESIGN		600	
		CONSTRUCTION		17,500	
		TOTAL FUNDING	TRN	600 B	B
			TRN	7,800 C	C
			TRN	9,700 E	E
	TRN305	- KEWALO BASIN FACILITIES AND SERVICES			
27.	J12	KEWALO BASIN IMPROVEMENTS, OAHU			

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CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		IMPROVEMENTS AT KEWALO BASIN INCLUDING STRUCTURES, UTILITIES, PAVING, LIGHTING, AND OTHER SHORESIDE IMPROVEMENTS.			
		DESIGN		160	
		CONSTRUCTION		1,330	
		TOTAL FUNDING	TRN	1,490	C
					C
		TRN311 - HILO HARBOR FACILITIES AND SERVICES			
28.	L06	CONTAINER FACILITIES AT HILO HARBOR, HAWAII			
		COMPLETE PAVING OF STORAGE YARD AND ACCOMPLISH OTHER IMPROVEMENTS.			
		DESIGN		35	
		CONSTRUCTION		275	
		TOTAL FUNDING	TRN	310	B
					B
		TRN313 - KAWAIHAE HARBOR FACILITIES AND SERVICES			
29.	L03	KAWAIHAE HARBOR IMPROVEMENTS, HAWAII			
		KAWAIHAE HARBOR IMPROVEMENTS INCLUDING PIER EXTENSION, DEMOLITION OF ABANDONED STRUCTURES AND DEVELOPMENT OF YARD AREAS, DREDGING AND OTHER IMPROVEMENTS.			
		DESIGN		300	
		CONSTRUCTION		525	
		TOTAL FUNDING	TRN	825	B
			TRN		E
					4,350 E
					B
		TRN331 - KAHULUI HARBOR FACILITIES AND SERVICES			
30.	M01	KAHULUI HARBOR IMPROVEMENTS, MAUI			
		PAVE PARKING AREA, CONSTRUCT LIGHTED PEDESTRIAN WALKWAY AND ACCOMPLISH OTHER IMPROVEMENTS.			
		DESIGN		20	
		CONSTRUCTION		120	
		TOTAL FUNDING	TRN	140	B
					B
31.	M06	PIER 1 IMPROVEMENTS AT KAHULUI HARBOR			
		DEVELOPMENT OF PIER AND BACKUP AREA AND OTHER IMPROVEMENTS.			
		DESIGN		100	
		CONSTRUCTION			1,000
		TOTAL FUNDING	TRN	100	B
					1,000 B
31A.	M09	KAHULUI HARBOR IMPROVEMENTS			
		DREDGING AND OTHER IMPROVEMENTS AT PIER 1.			
		DESIGN			150
		TOTAL FUNDING	TRN		150 B
					B
		TRN341 - KAUNAKAKAI HARBOR FACILITIES AND SERVICES			
31B.		KAUNAKAKAI HARBOR IMPROVEMENTS			
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS OF THE EXISTING PIER, TO INCLUDE EXTENSION OF THE PIER AND BREAKWATER.			

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		DESIGN		100	
		CONSTRUCTION		500	
		TOTAL FUNDING	TRN	600	D

TRN361 - NAWILIWILI HARBOR FACILITIES AND SERVICES

32. K01 NAWILIWILI HARBOR IMPROVEMENTS, KAUAI

DEVELOPMENT OF PIER 1 BACK-UP AREA AT NAWILIWILI
AND OTHER IMPROVEMENTS.

DESIGN	85	
CONSTRUCTION		900
TOTAL FUNDING	85	B

33. K08 NAWILIWILI HARBOR PIER.

CONSTRUCTION OF RO/RO PIER, PIER EXTENSION AND
OTHER IMPROVEMENTS.

DESIGN	250	
CONSTRUCTION		3,000
TOTAL FUNDING	250	B

33A. SECOND PIER, NAWILIWILI HARBOR

DESIGN FOR A SECOND PIER AT NAWILIWILI HARBOR, TO
INCLUDE IMPROVEMENTS TO PIER FACILITIES AND ACCESS
ROADS.

DESIGN	900	
TOTAL FUNDING		D

34. K10 SHOP/WAREHOUSE IMPROVEMENTS AT NAWILIWILI
HARBOREXPANSION OF SHOP/WAREHOUSE AND OTHER
IMPROVEMENTS.

DESIGN	15	
CONSTRUCTION		80
TOTAL FUNDING	95	B

TRN363 - PORT ALLEN HARBOR FACILITIES AND SERVICES

34A. K03 PORT ALLEN HARBOR IMPROVEMENTS

DREDGE SOUTH SIDE BERTHING AREA AND ACCOMPLISH
OTHER IMPROVEMENTS.

DESIGN	70	
CONSTRUCTION		530
TOTAL FUNDING	600	B

TRN395 - WATER TRANSPORTATION FAC & SVCS SUPPORT

35. I01 STATEWIDE HARBOR PLANNING

CONTINUING HARBOR STUDIES, RESEARCH AND ADVANCE
PLANNING OF HARBOR AND TERMINAL FACILITIES ON ALL
ISLANDS.

PLANS	130	
TOTAL FUNDING		B

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CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
36.	I03	MISCELLANEOUS IMPROVEMENTS TO FACILITIES AT NEIGHBOR ISLAND PORTS			
IMPROVEMENTS TO YARD AREAS, SHEDS, PIERS, UTILITIES, WATER AREAS AND OTHER FACILITIES.					
	DESIGN			25	25
	CONSTRUCTION			100	105
	TOTAL FUNDING		TRN	125 B	130 B
37.	I04	STATEWIDE COMMERCIAL HARBORS SEWER SYSTEM IMPROVEMENTS.			
SEWER IMPROVEMENTS AT HONOLULU HARBOR INCLUDING PIERS 19 TO 33 AREAS.					
	PLANS			95	
	DESIGN			25	
	CONSTRUCTION			1,255	
	TOTAL FUNDING		TRN	120 B	B
			TRN	1,255 E	E
TRN501 - OAHU HIGHWAYS AND SERVICES					
38.	Q47	INTERSTATE ROUTE H-1, SAFETY IMPRV. AND RECONSTR. OF UNIV. AVE INTERCHANGE, OAHU			
SAFETY IMPROVEMENTS AND RECONSTRUCTION OF UNIVERSITY AVENUE INTERCHANGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.					
	LAND			2,900	
	DESIGN			371	
	CONSTRUCTION			7,000	
	TOTAL FUNDING		TRN	110 D	D
			TRN	261 J	J
				8,613 J	
39.	Q50	INTERSTATE H-2, WAIPIO INTERCHANGE, OAHU			
PLAN, DESIGN AND CONSTRUCTION OF INTERCHANGE AT WAIPIO, OAHU. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.					
	CONSTRUCTION			6,538	
	TOTAL FUNDING		TRN	808 D	D
			TRN	5,730 J	J
40.	Q51	INTERSTATE H-1, RECONSTRUCTION TO MIDDLE STREET INTERCHANGE, OAHU.			
RECONSTRUCTION TO MIDDLE STREET INTERCHANGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.					
	LAND			250	
	DESIGN			2,500	
	TOTAL FUNDING		TRN	900 D	D
			TRN	1,600 J	J
41.	Q53	INTERSTATE H-1, MIDDLE STREET TO VINEYARD BOULEVARD, OAHU.			
TO INCREASE THE CAPACITY OF THE HIGHWAY FROM MIDDLE STREET TO VINEYARD BOULEVARD. THIS PROJECT					

CAPITAL IMPROVEMENT PROJECTS

APPROPRIATIONS
(IN 000'S)

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
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IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.

LAND				1,000
DESIGN				
TOTAL FUNDING	TRN	232	D	400 D
	TRN	450	J	600 J

42. Q54 INTERSTATE H-1, KUNIA TO HALAWA INTERCHG & H-2, MILILANI TO WAIWAIA INTERCHG, OAHU

ADDITIONAL LANES TO INCREASE THE INBOUND AND OUTBOUND CAPACITY OF INTERSTATE H-1, FROM KUNIA TO HALAWA INTERCHANGE AND INTERSTATE H-2, FROM MILILANI TO WAIWAIA INTERCHANGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.

DESIGN			50	
CONSTRUCTION			3,848	
TOTAL FUNDING	TRN	374	D	D
	TRN	3,524	J	J

43. R30 INTERSTATE ROUTE H-3,JUNCTION AT H-1 TO KANEOHE MARINE CORPS AIR STATION, OAHU

INCREMENTAL CONSTRUCTION OF DIVIDED HIGHWAY FROM JUNCTION AT H-1 TO KANEOHE MARINE CORPS AIR STATION. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.

CONSTRUCTION			62,026	
TOTAL FUNDING	TRN	4,756	D	11,544 D
	TRN	57,270	J	84,651 J

44. R52 CASTLE JUNCTION INTERCHANGE, KOOLAUPOKO, OAHU.

GRADE SEPARATION AT THE INTERSECTION OF KALANIANAOLE, PALI AND KAMEHAMEHA HIGHWAYS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.

PLANS			163	
LAND			900	
DESIGN			730	D
TOTAL FUNDING	TRN	73	D	1,265 K
	TRN	90	K	

45. R53 KAMEHAMEHA HIGHWAY, HELEMANO-WAIALUA JUNCTION TO HALEIWA BEACH PARK, OAHU

REALIGNMENT AND IMPROVEMENT OF HIGHWAY FROM HELEMANO-WAIALUA JUNCTION TO HALEIWA BEACH PARK. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.

LAND			1,558	
DESIGN			634	
CONSTRUCTION			1,770	D
TOTAL FUNDING	TRN	685	D	4,780 K
	TRN	1,507	K	

46. R71 LIKELIKE HWY-KAHEKILI HWY INTERCHANGE, AND KAHEKILI HIGHWAY IMPROVEMENTS, OAHU

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CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		LAND AND DESIGN FOR INTERCHANGE AT LIKELIKE HIGHWAY AND IMPROVEMENTS TO KAHEKILI HIGHWAY FROM LIKELIKE HIGHWAY TO KAMEHAMEHA HIGHWAY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.			
		LAND			165
		DESIGN		716	
		TOTAL FUNDING	TRN	716 D TRN K	41 D 124 K
47.	R76	KALANIANAOLE HIGHWAY, AINAKOA TO LUNALILO HOME ROAD, OAHU			
		DEVELOPING A TRANSPORTATION CORRIDOR INCLUDING HIGHWAYS, BIKEWAYS AND LAND TRANSIT SYSTEMS FROM HAWAII KAI TO DOWNTOWN HONOLULU. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.			
		LAND		3,567	3,255
		CONSTRUCTION		14,200	300
		TOTAL FUNDING	TRN	5,342 D TRN K	1,212 D 2,343 K
48.	S70	FORT WEAVER ROAD REALIGNMENT AND WIDENING, EWA, OAHU.			
		REALIGNMENT AND WIDENING OF FORT WEAVER ROAD INCLUDING IMPROVEMENTS TO KUNIA ROAD TO PROVIDE FOR A CONNECTION TO H-1 AND IMPROVEMENTS OF EXISTING TWO-LANE HIGHWAY TO A DIVIDED HIGHWAY, AND FOR THE EXTENSION OF THE RENTON ROAD-HANAKAHI STREET SECTION. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.			
		LAND		1,789	
		DESIGN		1,008	
		TOTAL FUNDING	TRN	1,121 D TRN L	D L
49.	S78	GUARDRAIL & SHOULDER IMPROVEMENTS AT VARIOUS LOC. ON STATE HIGHWAYS ON OAHU.			
		UPGRADING OF EXISTING DIRT OR SOD SHOULDERS WITH STABILIZED BASE AND SURFACE TREATMENT OR PAVING AND INSTALLATION OF METAL GUARDRAILS, CONCRETE SAFETY BARRIERS AND MODERNIZATION OF EXISTING GUARDRAILS AT VARIOUS LOCATIONS ON STATE HIGHWAYS ON OAHU.			
		DESIGN		50	50
		CONSTRUCTION		325	330
		TOTAL FUNDING	TRN	375 B	380 B
50.	S80	HIGHWAY LIGHTING IMPROVEMENTS, OAHU			
		HIGHWAY LIGHTING IMPROVEMENTS AND REHABILITATION AT VARIOUS LOCATIONS ON OAHU. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.			
		CONSTRUCTION		1,997	
		TOTAL FUNDING	TRN	1,997 D	D

CAPITAL IMPROVEMENT PROJECTS

APPROPRIATIONS
(IN 000'S)

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
51.	S81	TO INCREASE SAFETY & CAP OF INTERSTATE H-1 FROM MIDDLE ST TO AINAKOA AVE, OAHU.			
		DESIGN AND CONSTRUCTION OF HIGH OCCUPANCY VEHICLE (HOV) LANES ON INTERSTATE H-1 FROM KAPIOLANI INTERCHANGE TO AINAKOA AVE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.			
		CONSTRUCTION		275	
		TOTAL FUNDING	TRN	41 D	D J
			TRN	234 J	
52.	S83	SAND ISLAND ACCESS ROAD WIDENING AND IMPROVEMENTS, OAHU.			
		COMPLETION OF SAND ISLAND PARKWAY ROAD, CONSTRUCTION OF SECOND BRIDGE, WIDENING OF EXISTING ROAD TO NIMITZ HWY. AND CONSTRUCTION OF INTERCHANGE AT NIMITZ HWY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.			
		LAND		2,448	
		DESIGN		1,657	
		TOTAL FUNDING	TRN	497 D	734 D
			TRN	1,160 K	1,714 K
54.	S95	FARRINGTON HIGHWAY. REPLACEMENT OF 7 TIMBER BRIDGES, MAKAHANA, OAHU.			
		REPLACEMENT OF 7 TIMBER BRIDGES, MAKAHANA NO. 2, NO. 3, NO. 3A, NO. 3B, NO. 4, NO. 5, NO. 5A ON FARRINGTON HWY, OAHU. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.			
		CONSTRUCTION		5,200	
		TOTAL FUNDING	TRN	1,300 D	D N
			TRN	3,900 N	
54A.		HIGHWAY LIGHTS ON INTERSTATE H-1 FROM WAIAWA INTERCHANGE TO KUNIA INTERCHANGE			
		PLANS, DESIGN, AND CONSTRUCTION OF HIGHWAY LIGHTS ALONG INTERSTATE H-1 FROM WAIAWA INTERCHANGE TO KUNIA INTERCHANGE.			
		DESIGN		115	
		CONSTRUCTION		685	
		TOTAL FUNDING	TRN	80 D	D J
			TRN	720 J	
54B.		KALIHI STREET/IMPROVEMENTS FROM KING STREET TO NIMITZ HIGHWAY			
		DESIGN FOR ROAD WIDENING AND THE CONSTRUCTION OF SIDEWALKS, DRAINAGE SYSTEM, CURBING, AND GUTTERS ON KALIHI STREET FROM KING STREET TO NIMITZ HIGHWAY.			
		DESIGN		200	
		TOTAL FUNDING	TRN		200 D
54C.		KANEOHE BAY DRIVE			

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CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		DESIGN AND CONSTRUCTION OF STORAGE LANES (LEFT TURN LANES) ALONG KANEOHE BAY DRIVE.			
		DESIGN			25
		CONSTRUCTION			75
		TOTAL FUNDING	TRN	D	100 D
55.		KAMEHAMEHA HIGHWAY, WILSON BRIDGE AND APPROACHES, OAHU			
		FUNDS FOR ENGINEERING COSTS.			
		CONSTRUCTION		280	
		TOTAL FUNDING	TRN	280 D	D
56.		KALIHI STREET: IMPROVEMENTS FROM KING STREET TO NIMITZ HIGHWAY			
		PLANS, DESIGN, AND CONSTRUCTION OF SIDEWALKS, DRAINAGE SYSTEM, CURBING, INCLUDING GUTTERS.			
		PLANS		5	
		LAND		40	
		DESIGN		60	
		CONSTRUCTION		495	
		TOTAL FUNDING	TRN	600 D	D
56A.		INOAOLE STREAM BRIDGE, KALANIANAOLE HIGHWAY, WAIMANALO			
		DESIGN FOR THE REPLACEMENT OF THE INOAOLE STREAM BRIDGE ON THE KALANIANAOLE HIGHWAY IN WAIMANALO. DESIGN SHOULD ALLOW FOR FREE SPAN CONSTRUCTION OF THE APERTURE UNDER THE BRIDGE.			
		DESIGN			50
		TOTAL FUNDING	TRN	D	50 D
57.		KAMEHAMEHA HIGHWAY IMPROVEMENTS, MILILANI TOWARDS WAIAWA.			
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS, INCLUDING WIDENING, LIGHTING, AND LANDSCAPING. (STATE FUNDS SHALL NOT BE EXPENDED PRIOR TO DEVELOPER'S COMMITMENT OF FUNDS TO THIS PROJECT.)			
		TOTAL FUNDING	TRN		
57A.		KAMEHAMEHA HIGHWAY, H-1 TO MILILANI TOWN, OAHU			
		RIGHTS-OF-WAY.			
		LAND			1
		TOTAL FUNDING	TRN	D	D
57B.		INSTALLATION OF TRAFFIC LIGHTS			
		PLAN AND CONSTRUCT TRAFFIC LIGHTS AT THE INTERSECTION OF NEW FORT WEAVER ROAD AND ACCESS ROAD TO THE WAIPAHU STREET FRANCIS HOSPITAL MEDICAL CENTER.			
		PLANS			5
		CONSTRUCTION			20
		TOTAL FUNDING	TRN	D	25 D
57C.		H-1 TO AINA KOA AVENUE OFF-RAMP			

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		PLANS AND DESIGN FOR AN OFF-RAMP FROM H-1 TO AINA KOA AVENUE TO ALLOW FOR THE CONTINUATION OF THE LEFT-TURN CAPACITY.			
		PLANS		100	
		DESIGN		300	
		TOTAL FUNDING	TRN	400	D
58.		INTERSTATE H-1, PEARL CITY ON-RAMP ACCELERATION LANE, OAHU			
		CONSTRUCTION OF NEW HONOLULU-BOUND ACCELERATION LANE AND RELATED IMPROVEMENTS.			
		TOTAL FUNDING	TRN		
59.		MOANALUA ROAD, VICINITY OF WAIAU INTERCHANGE, OAHU			
		REALIGNMENT OF EXISTING LANES AND OTHER NECESSARY INTERSECTION IMPROVEMENTS, INCLUDING TRAFFIC LIGHTS.			
		TOTAL FUNDING	TRN		
60.		KAMEHAMEHA HWY, LEHUA AVENUE TO MOANALUA ROAD, TRAFFIC LIGHT IMPROVEMENTS			
		SYNCHRONIZATION OF TRAFFIC LIGHTS AND RELATED IMPROVEMENTS.			
		TOTAL FUNDING	TRN		
TRN511 - HAWAII HIGHWAYS AND SERVICES					
61.		T16 HAWAII BELT ROAD, IMPROVEMENTS TO SECTION 19H, HAWAII.			
		REALIGNMENT OF PORTION OF HAWAII BELT ROAD INCLUDING THE CONSTRUCTION OF THE KAPEHU AND KAALAU BRIDGES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.			
		LAND		42	
		DESIGN		103	
		CONSTRUCTION			6,000
		TOTAL FUNDING	TRN	145	D
			TRN		1,500 D
					4,500 N
62.		T62 KEAAU-PAHOA RD., CONSTRUCTION AT PAHOA TOWN, PUNA, HAWAII.			
		CONSTRUCTION OF HIGHWAY FROM THE VICINITY OF KEONEPOKO HOMESTEADS TO PAHOA-KALAPANA-KAPOHO ROAD JUNCTION, INCLUDING THE CONTIGUOUS SECTION OF THE PAHOA-KALAPANA ROAD. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.			
		LAND		133	
		CONSTRUCTION			7,662
		TOTAL FUNDING	TRN	41	D
			TRN	92	L
					5,544 L
63.		T75 KEAAU-PAHOA ROAD PUNA, HAWAII.			
		RECONSTRUCTION OF HIGHWAY FROM HAWAIIAN PARADISE PARK TO VICINITY OF KEONEPOKO			

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CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
HOMESTEADS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.					
		CONSTRUCTION		760	
		TOTAL FUNDING	TRN	178 D	D
			TRN	582 L	L
64.	T77 GUARDRAIL AND SHOULDER IMPROVEMENTS, AT VARIOUS LOCATNS ON STATE HWYS ON HAWAII				
UPGRADING OF EXISTING DIRT OR SOD SHOULDERS WITH STABILIZED BASE AND SURFACE TREATMENT OR PAVING AND INSTALLATION OF METAL GUARDRAILS AND MODERNIZATION OF EXISTING GUARDRAILS AT VARIOUS LOCATIONS ON STATE HIGHWAY ON HAWAII.					
		DESIGN		8	8
		CONSTRUCTION		180	180
		TOTAL FUNDING	TRN	188 B	188 B
65.	T79 HAWAII BELT ROAD,DRAINAGE IMPROVEMENTS DISTRICT OF KAU, HAWAII.				
HYDROLOGIC STUDIES OF DRAINAGE BASINS WHICH CAUSE FLOODING OF HBR, AND SUBSEQUENT DRAINAGE IMPROVEMENTS INCLUDING NEW STRUCTURES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.					
		LAND		200	
		CONSTRUCTION			1,280
		TOTAL FUNDING	TRN	200 D	1,280 D
66.	IMPROVEMENTS TO PUAINAKO EXTENSION ROADWAY AND SADDLE ROAD, HAWAII				
DESIGN AND CONSTRUCTION FOR IMPROVEMENTS OF SADDLE ROAD AND PUAINAKO EXTENSION ROADWAY; PROVIDED THAT ANY EXPENDITURE FOR SAID IMPROVEMENT SHALL OCCUR WITH THE CONCOMITANT CONSTRUCTION OF PUAINAKO EXTENSION ROADWAY.					
		TOTAL FUNDING	TRN		
66A.	T82 WIDENING OF QUEEN KAAHUMANU HIGHWAY, HAWAII				
WIDENING OF QUEEN KAAHUMANU HIGHWAY TO A FOUR LANE DIVIDED HIGHWAY FROM PALANI ROAD TOWARD Kawaihae INCLUDING PAVED SHOULDERS FOR A BIKE ROUTE.					
		LAND		20	
		TOTAL FUNDING	TRN	D	20 D
66B.	SOUTH KONA ROAD				
CONSTRUCTION OF SOUTH KONA ROADS.					
		CONSTRUCTION			3,000
		TOTAL FUNDING	TRN	D	3,000 D
66C.	SADDLE ROAD IMPROVEMENTS, HAWAII				
DESIGN & CONSTRUCTION FOR IMPROVEMENTS TO THE SADDLE ROAD, HAWAII FROM MILE POST 11 TO 23, INCLUDING REALIGNMENT AND PAVING.					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		DESIGN			150
		CONSTRUCTION			1,850
		TOTAL FUNDING	TRN	D	2,000 D

TRN531 - MAUI HIGHWAYS AND SERVICES

67. V41 HALEAKALA HIGHWAY, HANA HIGHWAY TO KULA HIGHWAY, MAKAWAO, MAUI.

CONSTRUCTION OF HIGHWAY FROM HALIIMAILE ROAD TO KULA HIGHWAY JUNCTION, AND A TRUCK CLIMBING LANE FROM HANA HIGHWAY TO HALIIMAILE ROAD. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.

CONSTRUCTION	7,661		
TOTAL FUNDING	TRN	2,043 D	K

68. V43 PILANI HIGHWAY, KIHEI TO ULUPALAKUA, MAUI.

INCREMENTAL CONSTRUCTION OF HIGHWAY FROM KIHEI TO ULUPALAKUA. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.

CONSTRUCTION	5,800		
TOTAL FUNDING	TRN	1,740 D	K

69. V45 HANA HIGHWAY - HUELO TO HANA, MAUI.

REPAIR AND REPLACEMENT OF BRIDGES AND CULVERTS, SAFETY IMPROVEMENTS AND RESURFACING OF HANA HIGHWAY FROM HUELO TO HANA. REPAIR AND REPLACEMENT OF BRIDGES TO INCLUDE THE KAWAIPAPA STREAM BRIDGE IN HANA.

DESIGN	50		
CONSTRUCTION	990		
TOTAL FUNDING	TRN	1,040 D	K

70. V48 GUARDRAIL AND SHOULDER IMPROVEMENTS ON STATE HIGHWAYS ON MAUI.

UPGRADING OF EXISTING DIRT OR SOD SHOULders WITH STABILIZED BASE AND SURFACE TREATMENT OR PAVING AND INSTALLATION OF METAL GUARDRAILS AND MODERNIZATION OF EXISTING GUARDRAILS AT VARIOUS LOCATIONS ON STATE HIGHWAYS ON MAUI.

DESIGN	66		
CONSTRUCTION	660		
TOTAL FUNDING	TRN	726 B	B

71. V49 HONOAPIILANI HIGHWAY CHAINLINK DRAPERY ALONG PALI SECTION, MAUI.

INSTALLATION OF CHAINLINK DRAPERY TO PREVENT ROCKS FROM FALLING ONTO HIGHWAY.

CONSTRUCTION	360		
TOTAL FUNDING	TRN	360 D	D

72. V51 HONOAPIILANI HWY WIDENING &OR REALIGNMENT, HONOLOWAI TO PUAMAWA, LAHAINA, MAUI

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		TO WIDEN THE EXISTING HIGHWAY AND/OR TO CONSTRUCT A NEW ALIGNMENT FROM HONOKOWAI TO PUAMANA, LAHAINA. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.			
		LAND		914	
		DESIGN		532	
		CONSTRUCTION		750	
		TOTAL FUNDING	TRN	668 D	2,836 D
			TRN	1,528 K	6,536 K
73.	V52 HANA HIGHWAY, REPLACEMENT OF THREE (3) TIMBER BRIDGES, HAiku, MAUI.				
		REPLACEMENT OF THREE TIMBER BRIDGES, KAUPAKALUA BRIDGE, UAOA BRIDGE AND HOOLAWA BRIDGE. THIS PROJECT DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID OR FINANCING REIMBURSEMENT.			
		DESIGN		300	325
		CONSTRUCTION		2,603	2,961
		TOTAL FUNDING	TRN	148 D	886 D
			TRN	2,755 N	2,400 N
73A.	HONOPOU BRIDGE AT HAMAKUALOA, MAKAWAO, MAUI				
		REPLACEMENT OF HONOPOU BRIDGE AT HAMAKUALOA TO MEET SAFETY AND LOADING STANDARDS.			
		CONSTRUCTION			95
		TOTAL FUNDING	TRN	D	95 D
73B.	DRAINAGE IMPROVEMENTS AT HANA HIGHWAY AND DAIRY ROAD, MAUI				
		PRELIMINARY ENGINEERING DESIGN FOR THE DRAINAGE IMPROVEMENT TO INSTALL TWO BOX CULVERTS CROSSING HANA HIGHWAY AND AT THE HALEAKALA HIGHWAY-KEOLANI PLACE INTERSECTION WITH A LINED CHANNEL BETWEEN THE TWO BOX CULVERTS.			
		DESIGN			250
		TOTAL FUNDING	TRN	D	250 D
75.	HALEAKALA HIGHWAY, MAUI				
		SHOULDER IMPROVEMENTS.			
		TOTAL FUNDING	TRN		
76.	MOKULELE HIGHWAY, MAUI				
		WIDENING AND SHOULDER IMPROVEMENTS.			
		TOTAL FUNDING	TRN		
TRN541 - MOLOKAI HIGHWAYS AND SERVICES					
77.	W08 GUARDRAIL AND SHOULDER IMPROVEMENTS ON STATE HIGHWAYS ON MOLOKAI.				
		UPGRADING OF EXISTING DIRT OR SOD SHOULDERS WITH STABILIZED BASE AND SURFACE TREATMENT OR PAVING AND INSTALLATION OF METAL GUARDRAILS AND MODERNIZATION OF EXISTING GUARDRAILS AT VARIOUS LOCATIONS ON STATE HIGHWAYS ON MOLOKAI.			

CAPITAL IMPROVEMENT PROJECTS

APPROPRIATIONS
(IN 000'S)

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		DESIGN		60	
		CONSTRUCTION			600
		TOTAL FUNDING	TRN	60 B	600 B

78. W07 KAMEHAMEHA V HIGHWAY AND MAUNALOA HIGHWAY-REPLACEMENT OF BRIDGES, MOLOKAI.

REPLACEMENT OF HONOULIMALOO AND KAMALO BRIDGES ON KAM V HIGHWAY AND MANAWAINUI BRIDGE ON MAUNALOA HIGHWAY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.

CONSTRUCTION		289
TOTAL FUNDING	TRN	289 N

N

TRN551 - LANAI HIGHWAYS AND SERVICES

79. W58 GUARDRAIL AND SHOULDER IMPRV AT VARIOUS LOCATIONS ON STATE HIGHWAYS ON LANAI

UPGRADING OF EXISTING DIRT OR SOD SHOULDERS WITH STABILIZED BASE AND SURFACE TREATMENT OR PAVING AND INSTALLATION OF METAL GUARDRAIL AND MODERNIZATION OF EXISTING GUARDRAIL AT VARIOUS LOCATIONS ON STATE HIGHWAYS ON LANAI.

DESIGN		33
TOTAL FUNDING	TRN	33 B

TRN561 - KAUAI HIGHWAYS AND SERVICES

80. X03 KAUAI BELT RD., HANALEI TO KALIHIWAI HANALEI, KAUAI.

CONSTRUCTION OF HIGHWAY, INCLUDING APPURtenant DRAINAGE, LANDSCAPING AND IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.

LAND		555
DESIGN		41
CONSTRUCTION		3,227
TOTAL FUNDING	TRN	936 D
	TRN	2,291 K

81. X49 STATE HWYS, SAFETY IMPROVEMENTS AT VARIOUS LOCATIONS INCLUDING DRAINAGE, KAUAI

SAFETY IMPROVEMENTS AT VARIOUS LOCATIONS ON KAUAI INCLUDING WIDENING, RECONSTRUCTING, RESURFACING, INSTALLING GUARDRAILS AND PAVEMENT MARKERS, AND OTHER IMPROVEMENTS NECESSARY TO ENHANCE SAFETY.

CONSTRUCTION		150
TOTAL FUNDING	TRN	150 D

82. X51 GUARDRAIL AND SHOULDER IMPROVEMENTS AT VARIOUS LOCATIONS ON STATE HWYS ON KAUAI

UPGRADING OF EXISTING DIRT OR SOD SHOULDERS WITH STABILIZED BASE AND SURFACE TREATMENT OR PAVING AND INSTALLATION OF METAL GUARDRAILS AND

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		MODERIZATION OF EXISTING GUARDRAILS AT VARIOUS LOCATIONS ON STATE HIGHWAYS ON KAUAI.			
		DESIGN		10	
		CONSTRUCTION		150	202
		TOTAL FUNDING	TRN	160 B	202 B
82A.	X54	KUHIO HIGHWAY, KAUAI.			
		CONSTRUCTION OF PASSING LANES BETWEEN HANAMAULU AND WAILUA. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.			
		DESIGN			650
		TOTAL FUNDING	TRN	D	180 D
			TRN	N	470 N
83.		KUHIO HIGHWAY SAFETY IMPROVEMENTS-KAUAI			
		DESIGN AND CONSTRUCT SECOND NORTH BOUND LAND (AND OTHER NECESSARY IMPROVEMENTS) BETWEEN RICE STREET AND WILCOX HOSPITAL AND APPROPRIATE LEFT-HAND TURN BAYS BETWEEN LIHUE AND KEALIA. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.			
		DESIGN		160	
		CONSTRUCTION			2,150
		TOTAL FUNDING	TRN	59 D	517 D
			TRN	101 N	1,633 N
84.		NAWILIWILI ROAD SAFETY IMPROVEMENTS, KAUAI			
		PLANNING, DESIGN AND CONSTRUCTION OF SAFETY IMPROVEMENTS AT INTERSECTION OF KUHIO HIGHWAY AND NAWILIWILI ROAD. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.			
		PLANS			20
		LAND			90
		DESIGN			75
		CONSTRUCTION			1,160
		TOTAL FUNDING	TRN	D	448 D
			TRN	N	897 N
85.		TRAFFIC SIGNAL, INTERSECTION OF HALEILO ROAD AND KUHIO HIGHWAY, KAUAI			
		DESIGN AND CONSTRUCTION OF TRAFFIC LIGHT.			
		DESIGN		20	
		CONSTRUCTION			105
		TOTAL FUNDING	TRN	20 D	35 D
			TRN	N	70 N
		TRN595 - LAND TRANSPORTATION FAC & SVCS SUPPORT			
86.	X91	CONSTRUCTION OF WHEELCHAIR RAMPS - STATEWIDE			
		CONSTRUCTION OF WHEELCHAIR RAMPS AT VARIOUS LOCATIONS ALONG STATE HIGHWAYS, STATEWIDE.			
		DESIGN		15	
		CONSTRUCTION		185	
		TOTAL FUNDING	TRN	200 D	D

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F		
87.	X96	CLOSE-OUT OF HIGHWAY RIGHTS-OF-WAY STATEWIDE					
		TO ACQUIRE CLEAR TITLE TO REAL PROPERTY USED FOR THE CONSTRUCTION OF PREVIOUS HIGHWAY PROJECTS WHERE APPLICABLE, TO PROVIDE FOR THE TRANSFER OF REAL PROPERTY INTEREST FROM THE STATE TO THE COUNTIES FOR THE IMPLEMENTATION OF THE STATE HIGHWAY SYSTEM.					
		LAND				300	
		TOTAL FUNDING	TRN		D	300	D
88.	X97	MISCELLANEOUS DRAINAGE IMPROVEMENTS, STATEWIDE					
		DRAINAGE IMPROVEMENTS TO EXISTING HIGHWAY FACILITIES.					
		LAND		5		5	
		DESIGN		15		15	
		CONSTRUCTION		80		80	
		TOTAL FUNDING	TRN	100	D	100	D
89.	X98	MISC. IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES, STATEWIDE					
		MISCELLANEOUS IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES NECESSARY FOR TRAFFIC SAFETY, INCLUDING ELIMINATION OF CONSTRICTIONS, ON-AND-OFF SITE, EFFECTING EFFICIENT FLOW OF TRAFFIC ON INTERSTATE HIGHWAYS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.					
		LAND		100		100	
		DESIGN		335		335	
		CONSTRUCTION		2,115		2,115	
		TOTAL FUNDING	TRN	925	D	925	D
			TRN	1,625	N	1,625	N
90.	X99	HIGHWAY PLANNING, STATEWIDE.					
		ROAD USE, ROAD LIFE, ECONOMIC STUDIES, RESEARCH AND ADVANCE PLANNING OF FEDERAL-AID AND NON FEDERAL-AID HIGHWAY PROJECTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.					
		PLANS		2,567		2,416	
		TOTAL FUNDING	TRN	867	B	816	B
			TRN	1,700	N	1,600	N

D. ENVIRONMENTAL PROTECTION

HTH840 - SOLIDS, LIQUIDS, GASES, AND NOISE

1. 840001 SEWERAGE CONSTRUCTION GRANTS

GRANTS TO COUNTY OR STATE AGENCY FOR ELIGIBLE WATER POLLUTION CONTROL FACILITIES CONFORMING WITH THE STATE WPC PLAN AUTHORIZED BY ACT 187/79. STATE MAY MAKE GRANTS TO FINANCE ELIGIBLE PLANNING, DESIGN AND/OR CONSTRUCTION COSTS OF PROJECTS RECEIVING FEDERAL GRANTS.

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 C
		PLANS		50	75
		DESIGN		80	200
		CONSTRUCTION		2,470	5,225
		TOTAL FUNDING	HTH	2,600 C	5,500 C

LNR402 - FORESTS AND WILDLIFE RESOURCES

2. D06 KAUAI DLNR BASEYARD

ADDITION TO THE DLNR BASEYARD TO INCLUDE CONSTRUCTION OF A 50' X 120' ENCLOSED PARKING AND STORAGE BUILDING FOR FIRE EQUIPMENT, 30' X 110' WAREHOUSE BUILDING AND 20' X 75' COVERED PARKING BUILDING FOR OTHER DLNR DIVISIONS, 25' X 40' EXTENSION OVER MECHANIC SHOP AND 25' X 50' EXTENSION OVER CARPENTER SHOP.

PLANS	10	
DESIGN	35	
CONSTRUCTION	50	
TOTAL FUNDING	95 C	397 C

3. D-45A KAWAINUI MARSH PROJECT, ACQUISITION OF ADJACENT LAND

FUNDS FOR ACQUISITION OF LAND ADJACENT TO KAWAINUI MARSH, IDENTIFIED BY TAX MAP KEY 4-2-16:02.

LAND	500	
TOTAL FUNDING	500 C	C

4. D24 VISITOR PARKING AT KANAHA POND WILDLIFE SANCTUARY, MAUI

PLANNING, DESIGN AND PAVING OF THE 80 FEET BY 60 FEET VISITOR PARKING LOT AT KANAHA POND WILDLIFE SANCTUARY TO IMPROVE VEHICULAR INGRESS AND EGRESS AND PARKING CONDITIONS AT THE PUBLIC VIEWING AREA.

PLANS	2	
DESIGN	4	
CONSTRUCTION	15	
TOTAL FUNDING	21 C	C

5. D40 KEKAHA—MANA WILDLIFE SANCTUARY IMPROVEMENTS, KAUAI

DEVELOPMENT OF WATER CONTROL STRUCTURES, MOATS, PUMPS, ISLAND SIGNS AND MARKERS ACCESS ROADS, FENCES, BRIDGES, DITCHES DIKES, CULVERTS AND STAFF OR PUBLIC VIEWING FACILITIES.

PLANS	5	
DESIGN	10	
CONSTRUCTION	60	
TOTAL FUNDING	75 C	60 C

6. D49 PUU WAAWAH WILDLIFE SANCTUARY DEVELOPMENT, HAWAII

PROJECT WILL INCLUDE THE CONSTRUCTION OF APPROXIMATELY 4.50 MILES OF BOUNDARY ROADS, APPROXIMATELY 5.50 MILES OF BOUNDARY FENCE RECONSTRUCTION, APPROXIMATELY 3.50 MILES OF

CAPITAL IMPROVEMENT PROJECTS

APPROPRIATIONS
(IN 000'S)

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
BOUNDARY AND EXCLUSION FENCE CONSTRUCTION, CONSTRUCTION OF TWO ALALA RELEASE PENS WITH OBSERVATION BLINDS, CONSTRUCTION OF TWO OBSERVATION TOWERS, AND THE CONSTRUCTION OF A TWO BEDROOM FIELD CABIN WITH WATER CATCHMENT.					
		PLANS		5	3
		DESIGN		7	5
		CONSTRUCTION		190	85
		EQUIPMENT			10
		TOTAL FUNDING	LNR	202 C	103 C
7.	D50 KAHULUI DOFAW NURSERY GREENHOUSE MAUI				
		CONSTRUCT A 80' X 25' GREENHOUSE WITH PIPE FRAME, CLEAR FIBERGLASS ROOF, AND 3 SIDED SARAN FABRIC WALLS OVER A 85' X 55' ASPHALT PAVED AREA. THIS STRUCTURE TO SERVE AS PROPAGATION FACILITY FOR KAHOOLOAWE RECLAMATION PROJECT.			
		PLANS		2	
		DESIGN		5	
		CONSTRUCTION		30	
		TOTAL FUNDING	LNR	37 C	C
8.	D-15 ARBORETA DEVELOPMENT IMPROVEMENT KAUAI				
		CONSTRUCT PAVED PARKING AREAS AT KEAHUA FORESTRY ARBORETUM.			
		PLANS		1	
		DESIGN		2	
		CONSTRUCTION		24	
		TOTAL FUNDING	LNR	27 C	C
9.	D-23 HAWAII ENDANGERED SPECIES FACILITY, MAUI				
		PLANNING, DESIGN, CONSTRUCTION, AND RENOVATION OF AN ENDANGERED SPECIES FACILITY TO MAINTAIN AND BREED ENDANGERED SPECIES IN CAPTIVITY FOR RESEARCH AND RELEASE INTO THE WILD INCLUDING FACILITIES FOR RESEARCH, VETERINARY MEDICINE AND SECURITY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND REIMBURSEMENT.			
		PLANS		10	2
		DESIGN		50	2
		CONSTRUCTION		610	30
		EQUIPMENT		10	5
		TOTAL FUNDING	LNR	680 C	C
10.	D04H FENCE CONSTRUCTION - PORTION OF KAU AND KAPAPALA FOREST RESERVE BOUNDARIES, HI				
		CONSTRUCTION OF APPROXIMATELY SEVEN MILES OF STANDARD FOREST BOUNDARY FENCE. PROJECT WILL REQUIRE THE CLEARING OF TREES ALONG THE FENCE ALIGNMENT WHICH COULD FALL ONTO AND DAMAGE THE FENCE, GRADING OF THE ALIGNMENT, AND THE CONSTRUCTION OF A WOVEN WIRE FENCE.			
		PLANS		4	
		DESIGN		12	
		CONSTRUCTION		155	
		TOTAL FUNDING	LNR	171 C	C

ACT 390**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
11.	D04M	KAHIKINUI FOREST RESERVE FENCE LINE, MAUI			
CONSTRUCT 6 MILES OF KIAWE POST-HOG WIRE FENCE ALONG THE SOUTHERN BOUNDARY OF THE LAND OF PAPAANUI IN THE KAHIKINUI FOREST RESERVE.					
	CONSTRUCTION			35	
	TOTAL FUNDING		LNR	35 C	C
LNR404 - WATER RESOURCES					
12.	J17	WAIAHOLE DITCH BULKHEADING PROJECT, OAHU			
PLANS, DESIGN AND CONSTRUCTION OF IMPROVEMENTS TO CAPTURE, STORE, AND CONTROL THE WATER FROM THE DIKE COMPLEX THAT FEEDS THE WAIAHOLE DITCH SYSTEM INCLUDING OTHER INCIDENTAL AND APPURTENANT WORK.					
	PLANS			50	
	LAND			50	
	DESIGN			200	
	CONSTRUCTION				800
	TOTAL FUNDING		LNR	300 C	800 C
15.	J24	WAIALUA MONITOR WELL, OAHU			
DESIGN AND DRILLING A MONITOR WELL, INSTALLING CASING, CORE SAMPLING AND OTHER INCIDENTAL AND APPURTENANT WORK.					
	LAND			23	
	DESIGN			27	
	TOTAL FUNDING		LNR	50 C	C
16.		HILO-POHAKULOA WATERLINE SYSTEM, HAWAII			
DESIGN DEVELOPMENT INCLUDING SURVEYS, SOIL INVESTIGATION, SCHEMATIC DESIGN, ENVIRONMENTAL IMPACT STATEMENT AND WATER RESOURCE INVESTIGATION FOR A SADDLEROAD PIPELINE WATERLINE SYSTEM FOR HILO-POHAKULOA.					
	DESIGN				1,750
	TOTAL FUNDING		LNR		1,750 C

E. HEALTH**HTH111 - HANSEN'S DISEASE**

1. P00032 ROAD REALIGNMENT, KALAUPAPA, MOLOKAI

DESIGN AND CONSTRUCTION FOR ROAD REALIGNMENT TO CORRECT DRAINAGE PROBLEM, KALAUPAPA, MOLOKAI.

DESIGN		5	
CONSTRUCTION		45	
TOTAL FUNDING	AGS	50 C	C

2. 111002 KALAUPAPA GASOLINE STORAGE TANKS

DESIGN AND CONSTRUCTION OF GASOLINE STORAGE TANKS AT KALAUPAPA SETTLEMENT.

DESIGN		48
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CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		CONSTRUCTION		441	
		TOTAL FUNDING	AGS	489 C	C
HTH211 - HILO HOSPITAL					
3.	211001	HILO HOSPITAL PSYCHIATRIC INPATIENT CARE UNIT			
		CONSTRUCT PSYCHIATRIC INPATIENT CARE UNIT BY RENOVATING EXISTING OLD HOSPITAL OR CONSTRUCTING A NEW STRUCTURE.			
		CONSTRUCTION		1,628	
		TOTAL FUNDING	AGS	1,628 A	A
HTH212 - HONOKAA HOSPITAL					
4.		NEW HOSPITAL FACILITY, HONOKAA			
		DESIGN FOR A FACILITY AT HONOKAA TO REPLACE THE PRESENT STRUCTURES THAT DO NOT CONFORM TO CODE AND LICENSURE/ CERTIFICATION STANDARDS.			
		DESIGN		300	
		TOTAL FUNDING	AGS	300 C	C
HTH213 - KA'U HOSPITAL					
5.	213001	KAU HOSPITAL ADDITION AND IMPROVEMENTS			
		CONSTRUCT MAINTENANCE OFFICE AND STORAGE ROOM AND ERECT FENCING ALONG HOSPITAL BOUNDARY.			
		DESIGN		20	
		CONSTRUCTION		137	
		TOTAL FUNDING	AGS	157 C	C
HTH215 - KONA HOSPITAL					
6.	215001	KONA HOSPITAL			
		DESIGN FOR RENOVATION AND EXPANSION OF EXISTING FACILITY.			
		DESIGN		260	
		TOTAL FUNDING	AGS	260 C	C
HTH221 - MAUI MEMORIAL HOSPITAL					
7.	221001	MAUI MEMORIAL HOSPITAL 2ND INCREMENT RENOVATION OF 1952 HOSPITAL BUILDING			
		PLANS, CONSTRUCTION, RENOVATION AND MODIFICATION OF EXISTING HOSPITAL FACILITIES TO UPGRADE MEDICAL, SURGICAL, PSYCHIATRIC NURSING UNITS AND TO UPGRADE ANCILLARY SERVICES. MASTER PLAN COMPLETED (1974) CERTIFICATION OF NEED APPROVED. PROJECT TO INCLUDE REMOVAL OF ASBESTOS.			
		DESIGN		454	
		CONSTRUCTION		11,292	
		EQUIPMENT		500	
		TOTAL FUNDING	AGS	454 C	C
					11,792 C
HTH224 - LANAI HOSPITAL					

ACT 390

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
8.		LANAI HOSPITAL RENOVATION			
ADDITIONAL SPACE FOR PATIENT ACTIVITIES AND AUXILIARY ACTIVITIES TO MEET MEDICARE/MEDICAID LICENSURE STANDARDS.					
		DESIGN		50	
		TOTAL FUNDING	AGS	50 C	C
HTH231 - KAUAI VETERANS MEMORIAL HOSPITAL					
9.	231001	KAUAI VETERANS MEM. HOSPITAL RENOVATION & CONSTR. FOR ACUTE & LONG-TERM BEDS			
DESIGN AND RENOVATION/CONSTRUCTION FOR ACUTE MEDICAL/SURGICAL NURSING UNIT AND LONG TERM CARE BEDS					
		DESIGN		150	
		CONSTRUCTION		1,800	
		EQUIPMENT		200	
		TOTAL FUNDING	AGS	150 C	2,000 C
10.	231004	KAUAI VETERANS MEMORIAL HOSPITAL UPGRADE WATER LINES			
DESIGN AND CONSTRUCTION TO INSTALL NEW WATER LINES FOR THE HOSPITAL AND NURSES' QUARTERS. NEW LINES TO BE REROUTED IN DIFFERENT LOCATION FROM EXISTING LINES.					
		DESIGN		5	
		CONSTRUCTION		35	
		TOTAL FUNDING	AGS	40 C	C
11.	231005	KAUAI VETERANS MEMORIAL HOSPITAL ASBESTOS REMOVAL			
DESIGN AND CONSTRUCTION TO REMOVE ASBESTOS THROUGHOUT THE HOSPITAL.					
		CONSTRUCTION		500	
		TOTAL FUNDING	AGS	500 C	C
HTH232 - SAMUEL MAHELONA MEMORIAL HOSPITAL					
12.		SAMUEL MAHELONA MEMORIAL HOSPITAL NEW PATIENT CARE UNIT			
DESIGN FOR A NEW PATIENT CARE WING IN ACCORDANCE WITH THE HOSPITAL PROJECT DEVELOPMENT REPORT.					
		DESIGN		50	
		TOTAL FUNDING	AGS	50 C	C
HTH241 - MALUHIA HOSPITAL					
13.	241001	MALUHIA HOSPITAL DAY HOSPITAL EXPANSION			
DESIGN & CONSTRUCTION FOR DAY HOSPITAL WING.					
		DESIGN		2	
		CONSTRUCTION		300	
		EQUIPMENT		24	
		TOTAL FUNDING	AGS	326 C	C

CAPITAL IMPROVEMENT PROJECTS

APPROPRIATIONS
(IN 000'S)

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
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14. 241002 CONSTRUCT & RENOVATE FIRST FLOOR &
BASEMENT FOR SNF/ICF LEVEL & RESPITE CARE

DESIGN, CONSTRUCTION AND EQUIPMENT FOR
RENOVATION OF FIRST FLOOR AND BASEMENT FOR SNF/
ICF LEVEL OF CARE PATIENTS, NURSES STATION, CLEAN
AND DIRTY UTILITY ROOMS. STORAGE FOR LINEN AND
SUPPLIES AND MEDICINE ROOM. COMBINED DINING AND
ACTIVITY AREA FOR PATIENTS ARE REQUIRED. LARGE
CONFERENCE ROOM FOR USE BY STAFF.

DESIGN	100	
CONSTRUCTION		853
EQUIPMENT		101
TOTAL FUNDING	AGS	100 C 954 C

HTH242 - LEAHI HOSPITAL

15. 242002 LEAHI HOSPITAL ASBESTOS REMOVAL STUDY

PREPARATION OF PLANS, SPECIFICATIONS, & COST
ESTIMATES FOR THE REMOVAL OF ASBESTOS AT LEAHI
HOSPITAL.

DESIGN	125	
TOTAL FUNDING	AGS	125 C C

16. 242004 LEAHI HOSPITAL UPGRADE ELECTRICAL

DESIGN AND CONSTRUCTION TO UPGRADE EXISTING
ELECTRICAL SYSTEMS AT SINCLAIR, MAINTENANCE AND
ADMINISTRATION BUILDING.

DESIGN	25	
CONSTRUCTION		159
TOTAL FUNDING	AGS	25 A C 159 C

HTH430 - HAWAII STATE HOSPITAL

17. 430001 HI STATE HOSPITAL-PLANS & CONSTRUCTION FOR
DEV. OF HOSP. INCL. MODIF. & RENOV.

PLANS AND CONSTRUCTION FOR DEVELOPMENT OF STATE
HOSPITAL INCLUDING RENOVATIONS AND
MODIFICATIONS. DESIGN TO INCLUDE RENOVATIONS TO
CISU, GODDARD, AND ADOLESCENT BUILDINGS AFTER
NEW FACILITIES ARE OCCUPIED. DESIGN AND
CONSTRUCTION TO INCLUDE RELOCATION AND/OR
CONSTRUCTION TO ACCOMMODATE THE COMMUNITY
COLLEGE FACILITIES LOCATED ON THE STATE HOSPITAL
PROPERTY

DESIGN	10	
CONSTRUCTION		14,490
EQUIPMENT		500
TOTAL FUNDING	AGS	15,000 A A

HTH511 - WAIMANO TRAINING SCHOOL AND HOSPITAL

18. 511001 DESIGN AND CONSTRUCTION FOR REMOVAL OF
ASBESTOS-WAIMANO TRNG SCHOOL & HOSPITAL

ACT 390

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		DESIGN AND CONSTRUCTION FOR REMOVAL OF ASBESTOS - WAIMANO TRAINING SCHOOL AND HOSPITAL			
		DESIGN		3	
		CONSTRUCTION		27	
		TOTAL FUNDING	AGS	30	C
19.	511002	CONVERT WAIMANO TRAINING SCHOOL & HOSP'S PRIMARY ELECTRICAL SYSTEM TO HEKO			
		HAWAIIAN ELECTRIC COMPANY TO REPLACE WAIMANO TRAINING SCHOOL AND HOSPITAL'S PRIMARY ELECTRICAL SYSTEM. MAINTENANCE OF THE PRIMARY ELECTRICAL SYSTEM SHALL BE BORNE BY HAWAIIAN ELECTRIC COMPANY. CONVERSION IS NECESSARY TO STABILIZE POWER FLUCTUATION, WHICH CAUSE MOTOR AND EQUIPMENT SHUTDOWN. CURRENT SYSTEM IS OVERLOADED AND UNABLE TO HANDLE INCREASED POWER DEMANDS.			
		DESIGN		7	
		CONSTRUCTION		304	
		TOTAL FUNDING	AGS	311	C
19A.	511003	WAIMANO TRAINING SCHOOL AND HOSPITAL SEWER CONNECTION			
		CONSTRUCTION TO CONNECT WAIMANO TRAINING SCHOOL AND HOSPITAL SEWER SYSTEM TO CITY SEWER SYSTEM.			
		DESIGN		10	
		CONSTRUCTION		744	
		TOTAL FUNDING	AGS	754	C
		HTH901 - LABORATORY SERVICES			
20.	901001	NEW LAB AND VECTOR CONTROL COMPLEX			
		PLANS AND DESIGN FOR A NEW LAB COMPLEX AND VECTOR CONTROL FACILITY.			
		PLANS		180	
		DESIGN		1,554	
		TOTAL FUNDING	AGS	1,639	C
		HTH907 - GENERAL ADMINISTRATION			
21.	907003	DIAMOND HEAD HEALTH CENTER RENOVATION			
		RENOVATE TREATMENT AND CLINIC ROOMS TO ACCOMMODATE OFFICE STAFF AND EQUIPMENT.			
		DESIGN		32	
		CONSTRUCTION		296	
		TOTAL FUNDING	AGS	32	C
22.	907006	WAIPAHU HEALTH CENTER RENOVATION			
		DESIGN AND CONSTRUCTION TO RENOVATE THE HEALTH CENTER & PROVIDE ADDITIONAL SPACE.			
		DESIGN		23	
		CONSTRUCTION		195	
		TOTAL FUNDING	AGS	218	C
		SUB601 - PRIVATE HOSPITALS & MEDICAL SERVICES			

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
23.		WAIANAE COAST COMPREHENSIVE HEALTH CENTER, OAHU.			
PLANS, DESIGN, AND CONSTRUCTION FOR EXPANSION AND RENOVATION OF THE WAIANAE COAST COMPREHENSIVE HEALTH CENTER. GRANT-IN-AID.					
		PLANS		50	
		DESIGN		150	
		CONSTRUCTION		1,300	
		TOTAL FUNDING	HTH	1,500	C

F. SOCIAL SERVICES

SOC220 - RENTAL HOUSING AUGMENTATION AND ASSISTANCE

1. HA8801 IMPROVEMENT OF EXTERIOR LIGHTING SYSTEM AT PALOLO HOMES II

INSTALLATION OF ADDITIONAL EXTERIOR LIGHTS AND UPGRADING PRESENT SYSTEM WITH VANDALPROOF FIXTURES.

DESIGN	12	
CONSTRUCTION	250	
TOTAL FUNDING	SOC	262 C

2. HA8802 INSTALLATION OF TILE FLOOR COVERING AT PALOLO HOMES I AND II

INSTALL FLOOR COVERING IN 306 ENTIRE DWELLING UNITS.

DESIGN	10	
CONSTRUCTION	550	
TOTAL FUNDING	SOC	560 C

3. HA8803 CONVERT WINDOWS AND SCREENS FOR 23 BUILDINGS AT PUHALA HOMES I, II, III, AND IV

CHANGE WINDOW AND SCREENS TO ALUMINUM FRAME WITH JALOUSIES.

DESIGN	8	
CONSTRUCTION	100	
TOTAL FUNDING	SOC	108 C

4. HA8804 RETAINING WALLS FOR BUILDING NOS. 1583, 1611, AND 1609 AT HAIKI

INSTALLATION AND CONSTRUCTION OF RETAINING WALLS.

DESIGN	6	
CONSTRUCTION	50	
TOTAL FUNDING	SOC	56 C

5. HA8805 SECURITY IMPROVEMENTS TO GROUND FLOOR UNITS AT PALOLO HOMES II

INSTALLATION OF SOLID CORE DOORS, DEAD BOLT DOOR LOCKS AND WIDE-ANGLE VIEWERS, AND UPGRADED WINDOW LOCKS.

DESIGN	15	
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CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		CONSTRUCTION		450	
		TOTAL FUNDING	SOC	465	C
6.	HA8806	ENCLOSURE FOR LAUNDRY AREAS AT PALOLO HOMES II			
		INSTALL ENCLOSURES WITH CMU/CONCRETE CONSTRUCTION INCLUDING DOORS WITH LOCKS.			
		DESIGN		12	
		CONSTRUCTION		300	
		TOTAL FUNDING	SOC	312	C
7.	HA8807	IMPROVEMENTS AT PUHALA HOMES			
		INSTALLATION OF NON-SKID TREADS ON INTERIOR STAIRS AT PUHALA I, II, III, AND EXTERIOR STAIRS AT PUHALA II, III, AND IV, PLASTIC LAMINATED PANELS ON WALL BEHIND RANGES, AND FLOOR TILES IN BEDROOMS AND LIVING ROOMS AT PUHALA I, II, III			
		DESIGN		8	
		CONSTRUCTION		150	
		TOTAL FUNDING	SOC	158	C
8.	HA8809	IMPROVEMENTS TO GROUNDS AT WAIMANALO			
		CONSTRUCTION OF A RETAINING WALL AND FENCING ALONG THE REAR OF THE PROPERTY.			
		CONSTRUCTION		64	
		TOTAL FUNDING	SOC	64	C
9.	HA8810	PLAN NEW OFFICE BUILDING PARKING AND MAINTENANCE FACILITIES			
		PLANS FOR NEW 20,000 SQ FT OFFICE BUILDING, 5,000 SQ FT MAINT GARAGE AND OFFICE-WAREHOUSE, INCLUDING SITWORK AND PARKING. ADDITIONAL OFFICE SPACE IS REQUIRED TO RELIEVE CRAMPED OFFICES AND TO CONSOLIDATE VARIOUS OFFICES WHICH ARE LOCATED AT RENTED SPACES IN DIFFERENT LOCATIONS IN THE CITY.			
		DESIGN		200	
		TOTAL FUNDING	SOC	200	C
10.	HA8821	RELOCATE SEWER CLEANOUTS FOR EACH DWELLING UNIT AT LOKAHI			
		CONSTRUCT SEWER CLEANOUTS IN ACCESSIBLE LOCATIONS.			
		DESIGN		5	
		CONSTRUCTION		35	
		TOTAL FUNDING	SOC	40	C
11.	HA8822	INSTALLATION OF NEW CLEANOUTS AT HAIKI			
		INSTALL AND CONSTRUCT NEW CLEANOUTS FOR EACH DWELLING UNIT AT HAIKI.			
		DESIGN		5	
		CONSTRUCTION		60	
		TOTAL FUNDING	SOC	65	C
		BED225 - PRIVATE HOUSING DEVELOPMENT AND OWNERSHIP			
12.	P00047	ELDERLY HOUSING PROJECTS			

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F

FUNDS ARE PROVIDED FOR LAND ACQUISITION,
PLANNING, DESIGN, AND CONSTRUCTION OF ELDERLY
RENTAL HOUSING PROJECTS FOR KAPUNA II.

PLANS	100
LAND	1,310
DESIGN	800
CONSTRUCTION	13,830
EQUIPMENT	60
TOTAL FUNDING	BED 16,100 C

C

BED225 - PRIVATE HOUSING DEVELOPMENT AND OWNERSHIP

13. P00048 WAILANI STREAM DRAINAGE IMPROVEMENTS

PLANNING, DESIGN, AND CONSTRUCTION OF WAILANI
STREAM DRAINAGE IMPROVEMENTS.

PLANS	50
DESIGN	100
CONSTRUCTION	1,500
TOTAL FUNDING	BED 150 C 1,500 C

BED225 - PRIVATE HOUSING DEVELOPMENT AND OWNERSHIP

14. P00049 KEALAKEHE MASTER PLANNING

MASTER PLANNING AND DESIGN OF UNDEVELOPED STATE
LAND SITUATED IN KEALAKEHE, NORTH KONA, HAWAII
(MAUKA AND MAKAI PARCELS).

PLANS	500
TOTAL FUNDING	BED 500 C

C

BED225 - PRIVATE HOUSING DEVELOPMENT AND OWNERSHIP

15. P00050 KEALAKEHE MULTI-FAMILY WATER SYSTEM
IMPROVEMENTS.

LAND ACQUISITION, PLANS, DESIGN AND CONSTRUCTION
OF STORAGE AND TRANSMISSION IMPROVEMENTS.

LAND	200
DESIGN	100
CONSTRUCTION	1,000
TOTAL FUNDING	BED 1,000 A 300 C

A
C**BED225 - PRIVATE HOUSING DEVELOPMENT AND OWNERSHIP**

16. P00051 FEASIBILITY OF HOUSING DEVELOPMENT IN SOUTH
POINT AREA OF HAWAII

PLANS FOR HOUSING DEVELOPMENT IN THE SOUTH POINT
AREA OF THE BIG ISLAND.

PLANS	100
TOTAL FUNDING	BED 100 C

C

- 16A. ELDERLY HOUSING FACILITIES, WAHIWA

LAND ACQUISITION, PLANS, DESIGN, AND CONSTRUCTION
OF, AND EQUIPMENT FOR, ELDERLY HOUSING FACILITIES
IN WAHIWA, OAHU.

ACT 390

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		PLANS		10	
		LAND		960	
		DESIGN		120	
		CONSTRUCTION		2,870	
		EQUIPMENT		40	
		TOTAL FUNDING	BED		4,000 C
16B.		WAIAHOLE VALLEY AGRICULTURAL PARK & RESIDENTIAL LOTS SUBDIVISION			
		DESIGN OF IMPROVEMENTS TO COMPLETE THE WAIAHOLE AGRICULTURAL PARK AND RESIDENTIAL LOTS SUBDIVISION.			
		DESIGN		250	
		TOTAL FUNDING	BED		250 C
16C.		ELDERLY HOUSING FACILITIES, CROWN PROPERTY, WAIPAHU			
		PLANS AND DESIGN FOR ELDERLY HOUSING FACILITIES IN WAIPAHU, OAHU.			
		PLANS		10	
		DESIGN		175	
		TOTAL FUNDING	BED		185 C
16D.		FINANCING AND REFINANCING OF RENTAL HOUSING PROJECTS			
		FEASIBILITY STUDIES, PLANS, DESIGN, LAND ACQUISITION, CONSTRUCTION, EQUIPMENT AND ALL OTHER COSTS RELATED TO RENTAL HOUSING PROJECTS.			
		PLANS		100	
		LAND		100	
		DESIGN		100	
		CONSTRUCTION		74,600	
		EQUIPMENT		100	
		TOTAL FUNDING	BED		75,000 E
SOC807 - TEACHER HOUSING					
17.	HA8825 LANAI TEACHERS COTTAGES				
		CONSTRUCTION OF 9 UNITS			
		DESIGN		25	
		CONSTRUCTION		420	
		TOTAL FUNDING	AGS	445 C	
18.	HA8826 REPLACEMENT OF ONE DUPLEX COTTAGE AT WAIMEA TEACHERS HOUSING SITE				
		CONSTRUCTION OF ONE 2-BEDROOM 1-BATH DUPLEXES AT WAIMEA.			
		DESIGN		7	
		CONSTRUCTION		68	
		TOTAL FUNDING	AGS	75 C	
19.	HA8827 KOHALA TEACHER COTTAGES				
		CONSTRUCTION OF THREE 3-BEDROOM 2-BATH COTTAGES AND THREE 2-BEDROOM 1-BATH DUPLEXES			
		DESIGN		25	

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)														
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F													
		CONSTRUCTION TOTAL FUNDING	AGS	360 385 C	C													
HHL602 - PLANNING, DEV, MGT & GEN SPPT FOR HAWN HMSTDs																		
20. LMD001 HAWAIIAN HOME LANDS DEVELOPMENT, STATEWIDE																		
DEVELOPMENT OF HAWAIIAN HOME LANDS FOR RESIDENTIAL, AGRICULTURAL, AND OTHER PURPOSES PERMITTED BY THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED, INCLUDING PLANS, DESIGNS AND THE CONSTRUCTION OF ON-SITE (SUCH AS GRADING, ROADS AND UTILITIES) AND OFF-SITE IMPROVEMENTS. FUNDS NOT NEEDED IN A COST ELEMENT MAY BE USED IN ANOTHER.																		
<table> <tr> <td>PLANS</td> <td>200</td> <td>240</td> </tr> <tr> <td>DESIGN</td> <td>2,000</td> <td>800</td> </tr> <tr> <td>CONSTRUCTION</td> <td>9,100</td> <td>5,880</td> </tr> <tr> <td>TOTAL FUNDING</td> <td>10,700 HHL HHL</td> <td>10 A 600 C</td> <td>A 6,920 C</td> </tr> </table>						PLANS	200	240	DESIGN	2,000	800	CONSTRUCTION	9,100	5,880	TOTAL FUNDING	10,700 HHL HHL	10 A 600 C	A 6,920 C
PLANS	200	240																
DESIGN	2,000	800																
CONSTRUCTION	9,100	5,880																
TOTAL FUNDING	10,700 HHL HHL	10 A 600 C	A 6,920 C															
21. LMD004 HAWAIIAN HOME LANDS ECONOMIC DEVELOPMENT STATEWIDE																		
DEVELOPMENT OF HAWAIIAN HOME LANDS FOR RESIDENTIAL, AGRICULTURAL, COMMERCIAL, INDUSTRIAL, RESORT AND OTHER PURPOSES PERMITTED BY THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED, INCLUDING PLANS, DESIGNS AND THE CONSTRUCTION OF ON-SITE (SUCH AS GRADING, ROADS, AND UTILITIES) AND OFF-SITE IMPROVEMENTS. FUNDS NOT NEEDED IN A COST ELEMENT MAY BE USED IN ANOTHER.																		
<table> <tr> <td>PLANS</td> <td>150</td> <td>325</td> </tr> <tr> <td>DESIGN</td> <td>775</td> <td>90</td> </tr> <tr> <td>CONSTRUCTION</td> <td>300</td> <td>1,568</td> </tr> <tr> <td>TOTAL FUNDING</td> <td>1,225 HHL</td> <td>1,225 D</td> <td>D 1,983 D</td> </tr> </table>						PLANS	150	325	DESIGN	775	90	CONSTRUCTION	300	1,568	TOTAL FUNDING	1,225 HHL	1,225 D	D 1,983 D
PLANS	150	325																
DESIGN	775	90																
CONSTRUCTION	300	1,568																
TOTAL FUNDING	1,225 HHL	1,225 D	D 1,983 D															
22. LMD005 WAIMANALO GRAVITY SEWER SYSTEM, SECTIONS 5, HAWAIIAN HOMES SUBDIVISION																		
DESIGN AND CONSTRUCTION OF GRAVITY SEWER SYSTEM TO PROVIDE SEWAGE DISPOSAL FOR EXISTING AND FUTURE HOMES IN THE WAIMANALO RESIDENCE LOTS, SECTION 5, HAWAIIAN HOMES SUBDIVISION. FUNDS APPROPRIATED MAY BE USED TO MATCH FEDERAL FUNDS																		
<table> <tr> <td>DESIGN</td> <td>125</td> <td></td> </tr> <tr> <td>CONSTRUCTION</td> <td></td> <td>1,000</td> </tr> <tr> <td>TOTAL FUNDING</td> <td>HHL</td> <td>125 C</td> <td>C 1,000 C</td> </tr> </table>						DESIGN	125		CONSTRUCTION		1,000	TOTAL FUNDING	HHL	125 C	C 1,000 C			
DESIGN	125																	
CONSTRUCTION		1,000																
TOTAL FUNDING	HHL	125 C	C 1,000 C															
23. HAWAIIAN CENTER FACILITY																		
FEASIBILITY AND SITE STUDY FOR A PROPOSED HAWAIIAN CENTER TO ACCOMMODATE THE DHHL AND OTHER AGENCIES SERVICING HAWAIIANS.																		
<table> <tr> <td>PLANS</td> <td>150</td> <td></td> </tr> <tr> <td>TOTAL FUNDING</td> <td>HHL</td> <td>150 C</td> <td>C</td> </tr> </table>						PLANS	150		TOTAL FUNDING	HHL	150 C	C						
PLANS	150																	
TOTAL FUNDING	HHL	150 C	C															

G. FORMAL EDUCATION

ACT 390

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)				
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F			
EDN105 - REGULAR INSTRUCTION PROGRAM								
1. 001 RELOCATE OR CONSTRUCT PORTABLE CLASSROOMS								
RELOCATION OR CONSTRUCTION OF PORTABLES EACH SCHOOL YEAR TO MEET ENROLLMENT SHIFTS AMONG SCHOOLS, PROGRAM DEMANDS, UNFORSEEN EMERGENCIES, AND TO PROVIDE TEMPORARY FACILITIES WHILE NEW SCHOOLS ARE BEING PLANNED AND/OR UNDER CONSTRUCTION. THESE FUNDS ARE ALSO FOR SECONDARY SCHOOLS.								
		DESIGN		500	700			
		CONSTRUCTION		4,425	7,500			
		EQUIPMENT		50	200			
		TOTAL FUNDING	AGS	4,975 C	8,400 C			
2. 002 MINOR IMPROVEMENTS								
MINOR ADDITIONS, RENOVATIONS AND IMPROVEMENT TO BUILDINGS AND SCHOOL SITES, INCLUDING ELEMENTARY SPECIAL CLASSROOMS (MUSIC, ARTS AND SCIENCE).								
		DESIGN		70	70			
		CONSTRUCTION		225	225			
		EQUIPMENT		5	5			
		TOTAL FUNDING	AGS	300 C	300 C			
3. 003 LUMP SUM FOR MASTER PLANS AND SITE STUDIES MINOR LAND ACQUISITION								
ACQUISITION OF SMALL PARCELS, MASTER PLANNING, PRE-LAND ACQUISITION STUDIES, SITE SELECTION AND FEASIBILITY STUDIES TO MEET FUTURE AND UNFORESEEN NEEDS. CIP ASSISTANCE FROM DAGS IN PROVIDING COST ESTIMATES FOR BUDGETING AND EXPENDITURE PLANNING								
		PLANS		145	150			
		LAND		5				
		TOTAL FUNDING	AGS	150 C	150 C			
4. 008 LUMP SUM - FIRE PROTECTION SYSTEMS; FIRE ALARM SYSTEMS								
FIRE PROTECTION SYSTEMS TO MEET WATER SYSTEM STANDARDS								
		DESIGN		50	50			
		CONSTRUCTION		250	250			
		TOTAL FUNDING	AGS	300 C	300 C			
5. 009 LUMP SUM - CORRECTION TO SOUND PROBLEM								
TO PROVIDE CORRECTIVE MEASURES ON EXCESSIVE EXTERIOR NOISE AND VENTILATION PROBLEMS THAT AFFECT CLASSROOMS.								
		DESIGN		50				
		CONSTRUCTION		450				
		TOTAL FUNDING	AGS	500 C				
6. 010 LUMP SUM-CORRECTION TO ASBESTOS PROBLEMS								
IMPROVEMENTS TO EXISTING SCHOOLS-CORRECTIONS AND RENOVATIONS TO ALL SCHOOL BUILDINGS WITH IDENTIFIED HEALTH AND SAFETY HAZARDS.								
		PLANS		40				

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		DESIGN		20	
		CONSTRUCTION		860	
		TOTAL FUNDING	AGS	920 C	C
7.	140006	MCKINLEY HIGH			
		DESIGN AND CONSTRUCT RENOVATION OF BUILDING E.			
		CONSTRUCTION		2,100	
		EQUIPMENT		10	
		TOTAL FUNDING	AGS	2,110 A	A
8.		MOANALUA HIGH			
		DESIGN AND CONSTRUCT ADMINISTRATION BUILDING.			
		TOTAL FUNDING	AGS		
9.	201007	AIEA HIGH SCHOOL			
		FUNDS ARE PROVIDED FOR LAND ACQUISITION, DESIGN, AND CONSTRUCTION OF GYMNASIUM, ROADWAY AND PARKING.			
		LAND		1	
		DESIGN		240	
		CONSTRUCTION		3,649	
		TOTAL FUNDING	AGS	3,628 A	A
			AGS	262 C	C
10.	216005	MILILANI UKA ELEMENTARY			
		DESIGN AND CONSTRUCT TEN CLASSROOM BUILDING.			
		DESIGN		150	
		CONSTRUCTION			1,730
		TOTAL FUNDING	AGS	150 A	A
			AGS	1,730 C	C
11.		WAIMALU ELEMENTARY SCHOOL.			
		DESIGN, CONSTRUCT AND EQUIP ADMINISTRATION BUILDING.			
		TOTAL FUNDING	AGS		
12.	237006	WHEELER ELEMENTARY SCHOOL			
		DESIGN AND CONSTRUCT CLASSROOMS, GROUND AND SITE IMPROVEMENTS.			
		CONSTRUCTION		1,300	
		EQUIPMENT		25	
		TOTAL FUNDING	AGS	1,325 C	C
13.	287001	HOAEAE ELEMENTARY			
		DESIGN AND CONSTRUCT 1ST INCREMENT; CLASSROOMS, PLAYFIELD, PARKING; GROUND AND SITE IMPROVEMENTS; RENOVATE CLASSROOMS INTO SUPPORT FACILITIES.			
		DESIGN		220	
		CONSTRUCTION			3,900
		EQUIPMENT		60	
		TOTAL FUNDING	AGS	220 C	C
14.	287002	HOAEAE ELEMENTARY			
		DESIGN AND CONSTRUCT CLASSROOMS; GROUND AND SITE IMPROVEMENTS.			

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CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		DESIGN TOTAL FUNDING	AGS		90 90 C
15.	303001	EWA ELEMENTARY SCHOOL			
		SEWER AND WATER SYSTEM CONNECTIONS, GROUND & SITE IMPROVEMENTS.			
		DESIGN CONSTRUCTION TOTAL FUNDING	AGS	40 325 40 C	
15A.	303002	EWA ELEMENTARY SCHOOL			
		DESIGN AND CONSTRUCT CLASSROOMS; GROUND AND SITE IMPROVEMENTS.			
		DESIGN TOTAL FUNDING	AGS		100 100 C
16.	325002	WAIANAE HIGH SCHOOL			
		SEWER ASSESSMENT, CONNECTION OF CESSPOOL SERVICED BUILDINGS TO SEWER TRUNK LINES, GROUND AND SITE IMPROVEMENTS.			
		DESIGN CONSTRUCTION TOTAL FUNDING	AGS	30 300 30 C	
17.	325003	WAIANAE HIGH SCHOOL			
		DESIGN AND CONSTRUCT CLASSROOMS, GROUND AND SITE IMPROVEMENTS.			
		CONSTRUCTION EQUIPMENT TOTAL FUNDING	AGS	2,900 35 2,935 C	
18.	330005	WAIPAHU HIGH SCHOOL			
		DESIGN AND CONSTRUCT CLASSROOMS, GROUND AND SITE IMPROVEMENTS.			
		CONSTRUCTION EQUIPMENT TOTAL FUNDING	AGS	2,000 30 2,030 C	
18A.	331002	KAHUKU ELEMENTARY SCHOOL			
		DESIGN AND CONSTRUCT CLASSROOMS; GROUND AND SITE IMPROVEMENTS			
		DESIGN TOTAL FUNDING	AGS		160 160 C
18B.	342003	WAIANAE III ELEMENTARY SCHOOL			
		DESIGN AND CONSTRUCT FIRST INCREMENT; CLASSROOMS, EQUIPMENT AND APPURTENANCES, GROUND AND SITE IMPROVEMENTS.			
		CONSTRUCTION EQUIPMENT TOTAL FUNDING	AGS		4,000 50 4,050 C
19.	342004	WAIANAE III ELEMENTARY			
		DESIGN AND CONSTRUCT CLASSROOMS, EQUIPMENT AND APPURTENANCES, GROUND AND SITE IMPROVEMENTS.			

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		DESIGN TOTAL FUNDING	AGS		90 90 C
20.	402005	CASTLE HIGH SCHOOL			
		DESIGN AND CONSTRUCTION OF P.E. ATHLETIC LOCKER/ SHOWER FACILITY TO REPLACE EXISTING SUBSTANDARD FACILITY.			
		DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING	AGS	136 2,128 10 136 C	90 2,138 C
21.	120009	KALANI HIGH SCHOOL.			
		DESIGN AND CONSTRUCTION FOR EXPANSION OF GYMNASIUM.			
		DESIGN CONSTRUCTION TOTAL FUNDING	AGS	50 250 300 C	2,128 10 C
22.	409001	SUNSET BEACH ELEMENTARY			
		DESIGN AND CONSTRUCT CLASSROOMS, EQUIPMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS.			
		DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING	AGS	90 1,845 25 90 C	90 1,870 C
23.	507005	HONOKAA HIGH			
		DESIGN AND CONSTRUCT CLASSROOMS; EQUIPMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS.			
		DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING	AGS	80 1,000 20 80 C	80 1,020 C
24.	513001	KEAAU ELEM. AND INTERMEDIATE SCHOOL PUNA, HAWAII			
		DESIGN AND CONSTRUCTION CLASSROOMS, WORKROOM, TOILETS, COVERED WALKWAYS, EQUIPMENT AND APPURTENANCES.			
		DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING	AGS	80 1,000 20 80 C	80 1,020 C
25.	517001	KONAWAENA ELEMENTARY (NEW)			
		MASTER PLAN REPORT.			
		PLANS TOTAL FUNDING	AGS	80 80 C	80 C
26.	517002	KONAWAENA ELEMENTARY (NEW)			
		LAND ACQUISITION.			
		LAND TOTAL FUNDING	AGS	600 600 C	600 C
27.	517003	KONAWAENA ELEMENTARY (NEW)			

ACT 390**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		DESIGN AND CONSTRUCT FIRST INCREMENT; CLASSROOMS, PLAYFIELD, PARKING; RELOCATE PORTABLES; EQUIPMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS.			
		DESIGN			150
		TOTAL FUNDING	AGS	C	150 C
28.	523012 PAHOA HIGH AND ELEMENTARY SCHOOL				
		DESIGN AND CONSTRUCT CLASSROOMS, COVERED WALKWAY, EQUIPMENT AND APPURTENANCES. DEMOLISH OLD STRUCTURE.			
		CONSTRUCTION		2,200	
		EQUIPMENT		30	
		TOTAL FUNDING	AGS	2,230 C	C
29.	526001 WAIAKEA INTERMEDIATE SCHOOL				
		DESIGN AND CONSTRUCT CLASSROOMS, GROUND AND SITE IMPROVEMENTS.			
		CONSTRUCTION		1,900	
		EQUIPMENT		30	
		TOTAL FUNDING	AGS	1,930 C	C
30.	528002 WAIMEA ELEMENTARY & INTERMEDIATE				
		DESIGN AND CONSTRUCT CLASSROOMS, COVERED WALKWAY, AND EQUIPMENT AND APPURTENANCES.			
		CONSTRUCTION		1,000	
		EQUIPMENT		15	
		TOTAL FUNDING	AGS	1,015 C	C
31.	534001 PAHOA ELEMENTARY (NEW)				
		MASTER PLAN REPORT.			
		PLANS		80	
		TOTAL FUNDING	AGS	80 C	C
32.	534002 PAHOA ELEMENTARY (NEW)				
		LAND ACQUISITION.			
		LAND		600	
		TOTAL FUNDING	AGS	600 C	C
33.	534003 PAHOA ELEMENTARY (NEW)				
		DESIGN AND CONSTRUCT FIRST INCREMENT; CLASSROOMS, PLAYFIELD, PARKING; RELOCATE PORTABLES; EQUIPMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS; AND COVERED WALKWAYS.			
		DESIGN			150
		TOTAL FUNDING	AGS	C	150 C
34.	603002 IAO SCHOOL, MAUI				
		DESIGN AND CONSTRUCT CLASSROOMS; GROUND AND SITE IMPROVEMENTS.			
		DESIGN		95	
		CONSTRUCTION			
		EQUIPMENT		25	
		TOTAL FUNDING	AGS	95 C	1,525 C
35.	608012 KIHEI SCHOOL				

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		DESIGN AND CONSTRUCT CLASSROOMS, GROUND AND SITE IMPROVEMENTS.			
		DESIGN		50	
		CONSTRUCTION			600
		EQUIPMENT			10
		TOTAL FUNDING	AGS	50 C	610 C
36.	618001	MOLOKAI HIGH & INTER SCHOOL, MOLOKAI			
		DESIGN AND CONSTRUCT INDUSTRIAL EDUCATION AND AGRICULTURE FACILITIES; GROUND AND SITE IMPROVEMENTS.			
		DESIGN		10	
		CONSTRUCTION		1,800	
		EQUIPMENT		12	
		TOTAL FUNDING	AGS	1,786 A	A
			AGS	36 C	C
37.	622010	WAIHEE ELEMENTARY			
		DESIGN AND CONSTRUCT CLASSROOMS; EQUIPMENT AND APPURTEANCES; GROUND AND SITE IMPROVEMENTS.			
		DESIGN		90	
		CONSTRUCTION			1,400
		EQUIPMENT			25
		TOTAL FUNDING	AGS	90 C	1,425 C
38.	625006	KALAMA INTERMEDIATE			
		DESIGN AND CONSTRUCT CLASSROOMS; EQUIPMENT AND APPURTEANCES; GROUND AND SITE IMPROVEMENTS.			
		DESIGN		100	
		CONSTRUCTION			2,548
		EQUIPMENT			30
		TOTAL FUNDING	AGS	100 C	2,578 C
39.	626000	NEW MAUI INTERMEDIATE			
		LAND ACQUISITION.			
		LAND		635	
		TOTAL FUNDING	AGS	635 C	C
40.	626003	NEW MAUI INTERMEDIATE SCHOOL			
		DESIGN AND CONSTRUCT FIRST INCREMENT; CLASSROOMS, PARKING, PLAYCOURT, PLAYFIELD, GROUND AND SITE IMPROVEMENTS.			
		CONSTRUCTION		5,900	
		EQUIPMENT		85	
		TOTAL FUNDING	AGS	5,985 C	C
40A.	626004	NEW MAUI INTERMEDIATE SCHOOL			
		DESIGN CLASSROOMS, GROUND AND SITE IMPROVEMENTS.			
		DESIGN			225
		TOTAL FUNDING	AGS	C	225 C
40B.	627002	KAMEHAMEHA III ELEMENTARY SCHOOL (ANNEX), MAUI			
		DESIGN AND CONSTRUCT CLASSROOMS; EQUIPMENT AND APPURTEANCES; GROUND AND SITE IMPROVEMENTS.			
		DESIGN		100	

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CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		TOTAL FUNDING	AGS	C	100 C
41.	799001	KAUAI SCHOOL DISTRICT			
		DESIGN AND CONSTRUCTION FOR REMOVAL OF FRIABLE ASBESTOS MATERIALS FROM KAUAI DISTRICT SCHOOLS.			
		DESIGN		40	
		CONSTRUCTION		210	
		TOTAL FUNDING	AGS	250 C	
42.	715001	HANAMAULU/WAILUA ELEMENTARY			
		MASTER PLAN REPORT.			
		PLANS		80	
		TOTAL FUNDING	AGS	80 C	
43.	715002	HANAMAULU/WAILUA ELEMENTARY			
		LAND ACQUISITION.			
		LAND		600	
		TOTAL FUNDING	AGS	600 C	
44.	715003	HANAMAULU/WAILUA ELEMENTARY			
		DESIGN AND CONSTRUCT FIRST INCREMENT; CLASSROOMS, PLAYFIELD, PARKING, RENOVATE CLASSROOMS FOR SUPPORT NEEDS; EQUIPMENT AND APPURTEINANCE; GROUND AND SITE IMPROVEMENTS.			
		DESIGN			220
		TOTAL FUNDING	AGS	C	220 C
45.	606001	KAUNAKAKAI SCHOOL, MOLOKAI			
		DESIGN AND CONSTRUCT NEW CLASSROOM BUILDING (4 ROOMS), PARKING AREA AND OTHER IMPROVEMENTS.			
		DESIGN		10	
		CONSTRUCTION		790	
		TOTAL FUNDING	AGS	800 C	
45A.		KAMILOIKI ELEMENTARY SCHOOL			
		DESIGN, CONSTRUCTION AND EQUIPMENT TO RENOVATE THE COMPUTER ROOM TO INCLUDE FOR AIR CONDITIONING.			
		DESIGN			5
		CONSTRUCTION			50
		EQUIPMENT			5
		TOTAL FUNDING	AGS	C	60 C
45B.		PEARL RIDGE ELEMENTARY SCHOOL			
		DESIGN AND CONSTRUCTION FOR ONE EIGHT-ROOM CLASSROOM BUILDING.			
		DESIGN		210	
		CONSTRUCTION		1,000	
		TOTAL FUNDING	AGS	C	1,210 C
45C.		WAIALUA HIGH SCHOOL			
		DESIGN AND CONSTRUCTION FOR THE REPLACEMENT OF THE LIGHTS AT THE FOOTBALL FIELD.			
		DESIGN		58	
		CONSTRUCTION		600	

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		TOTAL FUNDING	AGS	C	658 C
45D.		KALAHEO ELEMENTARY SCHOOL, KAUAI			
		DESIGN, CONSTRUCTION, AND EQUIPMENT OF A FOUR-CLASSROOM BUILDING.			
		DESIGN			80
		CONSTRUCTION			700
		EQUIPMENT			20
		TOTAL FUNDING	AGS	C	800 C
45E.		WAIANAE HIGH SCHOOL			
		DESIGN AND RENOVATE THREE (3) SCIENCE CLASSROOMS TO MEET SPECIFICATIONS.			
		DESIGN			90
		TOTAL FUNDING	AGS	C	90 C
45F.		KAIMILOA ELEMENTARY SCHOOL			
		DESIGN 12 CLASSROOM-BUILDING (9 REGULAR CLASSROOMS, 1 OFFICE, 2 LIBRARIES).			
		DESIGN			120
		TOTAL FUNDING	AGS	C	120 C
45G.		FARRINGTON HIGH SCHOOL			
		REPLACEMENT AND UPGRADING OF EQUIPMENT IN THE PRINT SHOP.			
		EQUIPMENT			60
		TOTAL FUNDING	AGS	C	60 C
45H.		KALIHI-WAENA SCHOOL			
		RENOVATE SCIENCE ROOM.			
		CONSTRUCTION			150
		TOTAL FUNDING	AGS	C	150 C
45I.		FERN SCHOOL			
		INSTALLATION OF A SECURITY GATE, BUILDING F, SECOND FLOOR.			
		CONSTRUCTION			26
		TOTAL FUNDING	AGS	C	26 C
45J.		KAISER HIGH SCHOOL			
		PLANS, DESIGN AND CONSTRUCTION FOR TICKET BOOTH, WIDEN SIDEWALKS, SIDEWALK LIGHTING, DRIVEWAY IMPROVEMENTS, AND WIDEN ENTRANCE GATE TO THE STADIUM.			
		PLANS			20
		DESIGN			100
		CONSTRUCTION			480
		TOTAL FUNDING	AGS	C	600 C

EDN107 - SPECIAL EDUCATION

46. 005 REMOVAL OF ARCHITECTURAL BARRIERS AND SPECIAL EDUCATION CLASSROOM IMPROVEMENTS

PROVIDE RAMPS, ELEVATORS, AND OTHER CORRECTIVE MEASURES FOR ACCESSIBILITY OF SCHOOL FACILITIES TO HANDICAPPED PERSONS.

ACT 390**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		PLANS		200	
		DESIGN		2,300	1,000
		CONSTRUCTION		7,500	8,000
		TOTAL FUNDING	AGS	6,000 A 4,000 C	9,000 A C

EDN203 - SCHOOL ADMINISTRATION

46A. 219001 MOANALUA HIGH

DESIGN AND CONSTRUCT ADMINISTRATION BUILDING.

DESIGN	15	
CONSTRUCTION	1,200	
EQUIPMENT	15	
TOTAL FUNDING	1,205 A 25 C	

46B. 243001 WAIMALU ELEMENTARY SCHOOL

DESIGN, CONSTRUCT AND EQUIP ADMINISTRATION
BUILDING.

DESIGN	65	
CONSTRUCTION	690	
EQUIPMENT	15	
TOTAL FUNDING	770 C	

EDN204 - INSTRUCTIONAL MEDIA

47. 340007 KANOELANI ELEMENTARY

DESIGN AND CONSTRUCT LIBRARY, GROUND AND SITE
IMPROVEMENTS.

DESIGN	80	
TOTAL FUNDING	C	80 C

48. 331009 WAIPAHU INTERMEDIATE

DESIGN AND CONSTRUCT LIBRARY.

DESIGN	100	
CONSTRUCTION		1,600
EQUIPMENT		20
TOTAL FUNDING	AGS	100 C 1,620 C

49. 121010 KALIHI ELEMENTARY SCHOOL.

DESIGN AND CONSTRUCTION FOR LIBRARY EXPANSION.

DESIGN	50	
CONSTRUCTION	100	
TOTAL FUNDING	AGS	150 C

50. KALIHI UKA ELEMENTARY SCHOOL, OAHU

LIBRARY AIR CONDITIONING.

DESIGN	6	
CONSTRUCTION	53	
EQUIPMENT	1	
TOTAL FUNDING	AGS	60 C

50A. SUNSET BEACH ELEMENTARY

DESIGN AND CONSTRUCTION OF A LIBRARY.

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		DESIGN CONSTRUCTION TOTAL FUNDING	AGS		97 1,405 1,502 C
50B.		FARRINGTON HIGH SCHOOL		C	
		DESIGN FOR A LIBRARY BUILDING AT FARRINGTON HIGH SCHOOL.			
		DESIGN TOTAL FUNDING	AGS		300 300 C
50C.		KANEOHE ELEMENTARY			
		CONSTRUCTION OF RENOVATION AND INSTALLATION OF AIR CONDITIONER FOR KANEOHE ELEMENTARY LIBRARY.			
		CONSTRUCTION TOTAL FUNDING	AGS		150 150 C
EDN304 - DISTRICT ADMINISTRATION					
51.		MAUI DOE DISTRICT ADMINISTRATION BUILDING, MAUI			
		PLANS AND DESIGN FOR A DOE DISTRICT ADMINISTRATION BUILDING.			
		PLANS DESIGN TOTAL FUNDING	AGS		50 250 300 C
					C
EDN305 - SCHOOL FOOD SERVICES					
51A.		KALAMA INTERMEDIATE SCHOOL			
		DESIGN, CONSTRUCTION AND EQUIP CAFETERIA WITH A KITCHEN AND DINING ROOM.			
		DESIGN CONSTRUCTION EQUIPMENT TOTAL FUNDING	AGS		100 2,100 30 2,230 C
51B.		KAUMANA SCHOOL			
		PLAN AND DESIGN A CAFETERIA FOR KAUMANA SCHOOL.			
		PLANS DESIGN TOTAL FUNDING	AGS		20 200 220 C
					C
EDN407 - PUBLIC LIBRARIES					
52.	085-11	PUBLIC LIBRARIES			
		REMOVAL OF ASBESTOS MATERIALS IN PUBLIC LIBRARIES.			
		DESIGN CONSTRUCTION TOTAL FUNDING	AGS		25 575 600 C
53.	800-01	PUBLIC LIBRARIES ARCHITECTURAL BARRIERS			
		REMOVAL OF ARCHITECTURAL BARRIERS FOR HANDICAPPED IN PUBLIC LIBRARIES.			

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CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		PLANS		350	
		DESIGN			700
		TOTAL FUNDING	AGS	350 C	700 C
53A.	800-02 LUMP SUM CIP				
		MINOR IMPROVEMENTS AND STUDIES OF FACILITIES AND LIBRARY SITES.			
		PLANS		50	
		DESIGN		50	
		CONSTRUCTION		290	
		EQUIPMENT		10	
		TOTAL FUNDING	AGS	C	400 C
54.	043-1 SALT LAKE/MOANALUA LIBRARY				
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION AND EQUIPMENT OF A FACILITY WITH TEMPERATURE HUMIDITY AND ACOUSTICAL CONTROLS TO PROVIDE LIBRARY SERVICES TO THE COMMUNITY OF SALT LAKE/MOANALUA AND ADJACENT COMMUNITIES.			
		PLANS		20	
		LAND		10	
		DESIGN		200	
		CONSTRUCTION		1,890	2,823
		EQUIPMENT		100	100
		TOTAL FUNDING	AGS	2,035 A	A
			AGS	185 C	3,000 C
55.	AINA HAINA LIBRARY				
		FUNDS FOR CARPETING AFTER ASBESTOS REMOVAL.			
		EQUIPMENT		30	
		TOTAL FUNDING	AGS	30 C	C
56.	001-2 HAWAII STATE PUBLIC LIBRARY EXPANSION: RENOVATION AND EXPANSION				
		DESIGN AND CONSTRUCTION FOR RENOVATION AND EXPANSION OF HAWAII STATE PUBLIC LIBRARY.			
		DESIGN		700	
		CONSTRUCTION		7,700	
		TOTAL FUNDING	AGS	7,630 A	A
			AGS	770 C	C
57.	900-13 WAIPAHU LIBRARY, OAHU				
		A FACILITY WITH TEMPERATURE HUMIDITY AND ACOUSTICAL CONTROLS TO RELOCATE AND REPLACE PRESENT LIBRARY.			
		PLANS		60	
		DESIGN			179
		TOTAL FUNDING	AGS	60 A	A
			AGS	C	179 C
58.	900-15 KIHEI LIBRARY, MAUI				
		CONSTRUCT A LIBRARY FACILITY WITH TEMPERATURE HUMIDITY AND ACOUSTICAL CONTROLS TO SERVICE THE GROWING COMMUNITY OF KIHEI.			
		PLANS		60	
		DESIGN			371
				100	

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		TOTAL FUNDING	AGS AGS	100 A C	431 A C
58A.		KAILUA-KONA PUBLIC LIBRARY			
		DESIGN, CONSTRUCT, AND EQUIP A PUBLIC LIBRARY IN KAILUA-KONA.			
		DESIGN		43	
		CONSTRUCTION		3,006	
		EQUIPMENT		100	
		TOTAL FUNDING	AGS		3,149 C
58B.		LUMP SUM - ENVIRONMENTAL CONTROLS			
		PROVIDE EXISTING LIBRARIES WITH RELIEF FROM EXCESSIVE SALINITY, HEAT, AND MOISTURE IN THE AIR WITH THE INSTALLATION OF ENVIRONMENTAL CONTROLS.			
		PLANS		15	
		DESIGN		150	
		CONSTRUCTION		465	
		TOTAL FUNDING	AGS		630 C
58C.		KAPAA EXPANSION AND AIR CONDITIONING			
		DESIGN, CONSTRUCT, AND EQUIP AN EXPANSION TO THE KAPAA PUBLIC LIBRARY.			
		DESIGN		34	
		CONSTRUCTION		98	
		EQUIPMENT		25	
		TOTAL FUNDING	AGS		157 C
58D.		LIHUE AIR CONDITIONING			
		DESIGN AND CONSTRUCT A TOTAL REPLACEMENT AND MOVE THE CENTRAL AIR CONDITIONING SYSTEM FOR THE LIHUE PUBLIC LIBRARY.			
		DESIGN		75	
		CONSTRUCTION		467	
		TOTAL FUNDING	AGS		542 C
58E.		NORTH SHORE KAUAI PUBLIC LIBRARY			
		PLAN THE NORTH SHORE KAUAI PUBLIC LIBRARY.			
		PLANS		60	
		TOTAL FUNDING	AGS		60 C
58F.		NANAKULI PUBLIC LIBRARY			
		PLAN THE NANAKULI PUBLIC LIBRARY.			
		PLANS		60	
		TOTAL FUNDING	AGS		60 C
58G.		NORTH SHORE OAHU PUBLIC LIBRARY			
		PLAN THE NORTH SHORE OAHU PUBLIC LIBRARY.			
		PLANS		60	
		TOTAL FUNDING	AGS		60 C
UOH101 - INSTRUCTION - UOH, MANOA					
59.	P00074	GEORGE HALL RENOVATIONS			
		DESIGN, CONSTRUCTION AND EQUIPMENT TO COMPLETE RENOVATION WORK.			

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		DESIGN		27	
		CONSTRUCTION		50	
		EQUIPMENT		221	
		TOTAL FUNDING	AGS	298 C	C
60.	006	BILGER HALL RENOVATIONS UNIVERSITY OF HAWAII, MANOA CAMPUS			
		RENOVATIONS & ADDITIONS TO BILGER HALL TO REFURBISH OLD, OBSOLETE FACILITIES CONSTRUCTED IN 1952; TO MODERNIZE FACILITIES; TO MEET HEALTH & SAFETY REQUIREMENTS; AND TO MAKE IT ACCESSIBLE TO THE PHYSICALLY HANDICAPPED. INCLUDES MINOR RENOVATIONS TO ACCOMMODATE OCCUPANTS IN TEMPORARY QUARTERS DURING CONSTRUCTION			
		DESIGN		67	190
		CONSTRUCTION		1	3,229
		EQUIPMENT		964	
		TOTAL FUNDING	AGS	1,032 C	3,419 C
61.	078	SCHOOL OF ARCHITECTURE FACILITY			
		DESIGN, CONSTRUCTION AND EQUIPPING OF FACILITIES FOR THE SCHOOL OF ARCHITECTURE. ALSO, RELOCATION OF EXISTING PORTABLES AT SITE, CONSTRUCTION OF SURFACE AND UNDERGROUND PARKING.			
		DESIGN		25	253
		CONSTRUCTION		1	
		EQUIPMENT		320	
		TOTAL FUNDING	AGS	346 A	A
			AGS	C	C
61A.	080	KUYKENDALL HALL RENOVATIONS			
		RENOVATIONS AND ADDITIONS TO KUYKENDALL HALL CLASSROOM WING TO IMPROVE VENTILATION, ACOUSTICS, LIGHTING, SAFETY AND AESTHETIC ENVIRONMENT AND TO EXTEND AND ENCLOSE OUTDOOR LANAI.			
		DESIGN		13	
		CONSTRUCTION		89	
		EQUIPMENT		8	
		TOTAL FUNDING	AGS		110 C
61B.	083	JAPANESE CASTLE ACQUISITION			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE ACQUISITION OF A DISMANTLED AUTHENTIC JAPANESE CASTLE, TO BE RECONSTRUCTED AT A SITE ON THE MANOA CAMPUS.			
		DESIGN		63	
		CONSTRUCTION		750	
		EQUIPMENT		75	
		TOTAL FUNDING	AGS		888 R
62.	085	UHM, CENTER FOR HAWAIIAN STUDIES			
		DESIGN, CONSTRUCTION AND EQUIPPING OF FACILITIES FOR THE HAWAIIAN STUDIES PROGRAM.			
		PLANS		50	
		DESIGN		162	
		TOTAL FUNDING	AGS	212 C	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
62A.		SCHOOL FOR HAWAIIAN, ASIAN AND PACIFIC STUDIES			
PLAN AND DESIGN OF THE SCHOOL OF HAWAIIAN, ASIAN AND PACIFIC STUDIES BUILDING.					
		PLANS		100	
		DESIGN		895	
		TOTAL FUNDING	AGS	995	C
63.	P00078	HAWAII INTERACTIVE TELEVISION SYSTEM, STUDIO CONVERSION			
CONVERSION OF EXISTING SPACE TO TELECASTING STUDIO.					
		DESIGN		25	
		CONSTRUCTION		100	
		EQUIPMENT		15	
		TOTAL FUNDING	AGS	140	C
64.	O92 UHM,	PACIFIC OCEAN SCIENCE AND TECHNOLOGY CENTER			
FUNDING INCLUDES DESIGN, CONSTRUCTION, & EQUIPMENT OF INSTRUCTIONAL AND RESEARCH FACILITIES TO INCLUDE CLASSROOMS, LABORATORIES, SEMINAR & CONFERENCE ROOMS, OFFICES, RESOURCE MATERIALS & EXHIBITION SPACES & OTHER RELATED AREAS. ALSO RENOVATION OF FACILITIES FOR PROGRAMS AFFECTED BY DEMOLITION AND SITE PREPARATION.					
		DESIGN		1,659	
		CONSTRUCTION		35,000	1
		TOTAL FUNDING	AGS	20,001	A
			AGS	1,659	C
			AGS	15,000	N
64A.	095	CENTER FOR CHINESE STUDIES			
DESIGN, CONSTRUCTION AND EQUIPMENT FOR FACILITIES TO ACCOMMODATE THE CHINESE STUDIES PROGRAM.					
		DESIGN		248	
		CONSTRUCTION		4,339	
		EQUIPMENT		413	
		TOTAL FUNDING	AGS	5,000	R
65.	P00080	AGRICULTURAL SCIENCE FACILITIES, PHASE III			
DESIGN OF NEW REPLACEMENT FACILITY FOR COLLEGE OF TROPICAL AGRICULTURE AND HUMAN RESOURCES.					
		DESIGN		743	46
		TOTAL FUNDING	AGS	743	C
66.	P00081	ADDITIONAL FACILITIES FOR THE ROTC PROGRAM.			
DESIGN, CONSTRUCTION AND EQUIPMENT FOR NEW FACILITIES.					
		DESIGN		15	
		CONSTRUCTION		267	
		EQUIPMENT		18	
		TOTAL FUNDING	AGS	300	C
67.	066 UHM,	KENNEDY THEATER ADDITION/ PARKING STRUCTURE			

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		DESIGN, CONSTRUCTION AND EQUIPPING AN ADDITION TO KENNEDY THEATER AND A PARKING STRUCTURE WITHIN THE ADJACENT PARKING LOT.			
		DESIGN		684	249
		TOTAL FUNDING	AGS	684 C	249 C
68.	023 UHM, CRAWFORD HALL RENOVATIONS				
		RENOVATIONS TO MODERNIZE OLD, DILAPIDATED AND OBSOLETE FACILITIES			
		DESIGN			265
		TOTAL FUNDING	AGS	C	265 C
68A.		PHYSICAL EDUCATION FACILITIES, SECOND INCREMENT			
		DESIGN OF THE PHYSICAL EDUCATION FACILITIES AND TO INCLUDE A REPLACEMENT FOR KLUM GYM.			
		DESIGN			503
		TOTAL FUNDING	AGS	C	503 C
68B.		COLLEGE OF EDUCATION COMPLEX, PHASE I			
		PLANS FOR THE COLLEGE OF EDUCATION COMPLEX, PHASE I, INCLUDING LABORATORY SCHOOL, FACILITIES FOR THE PRE-SCHOOL, THE ELEMENTARY SCHOOL AND THE SECONDARY SCHOOL.			
		PLANS			140
		TOTAL FUNDING	AGS	C	140 C
		UOH102 - ORGANIZED RESEARCH - UOH, MANOA			
69.	149 UHM, MAUNA KEA OBSERVATORY, POWER LINE AND COMMUNICATIONS SYSTEMS, ADDL. WORK				
		DESIGN AND CONSTRUCTION OF A PERMANENT ELECTRICAL TRANSMISSION AND DISTRIBUTION SYSTEM FROM THE SADDLE ROAD TO THE SUMMIT AT MAUNA KEA. INCLUDING SUBSTATIONS AND SWITCHGEAR. ALSO, DESIGN AND CONSTRUCTION OF COMMUNICATIONS SYSTEMS FROM HALE POHAKU TO THE SUMMIT.			
		DESIGN		55	1
		CONSTRUCTION		616	250
		TOTAL FUNDING	AGS	671 C	251 C
70.	159 UHM, MAUNA KEA OBSERVATORY ACCESS ROAD PHASE II				
		ACCESS ROAD IMPROVEMENTS FROM HALE POHAKU TO THE SUMMIT, INCLUDING PAVEMENT, DRAINAGE SYSTEM, STABILIZATION OF EMBANKMENT AND SHOULDERS, AND INSTALLATION OF GUARDRAILS AND REFLECTORS. THE RECOVERY OF FUNDS FROM OTHERS FOR REIMBURSEMENT OF INFRASTRUCTURE EXPENSES SHALL BE DEPOSITED IN THE STATE GENERAL FUND. (FUNDS TO BE EXPENDED BY THE DEPARTMENT OF TRANSPORTATION.)			
		DESIGN		80	
		CONSTRUCTION		8,085	
		TOTAL FUNDING	AGS	8,165 C	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
71.	P00084	EDUCATION AND INFORMATION CTR, MAUNA KEA MID LEVEL STATION, INSTITUTE FOR ASTRON			
		PLANS FOR EDUCATION AND INFORMATION CENTER AT MAUNA KEA.			
		PLANS		10	
		DESIGN		30	
		CONSTRUCTION		300	
		TOTAL FUNDING	AGS	C	340 C
72.	UHH, KOMOHANA RESEARCH CENTER - FOURTH WING.				
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A FOURTH WING, RESEARCH FACILITIES, GREEN HOUSES FOR KOMOHANA RESEARCH CENTER.			
		DESIGN		279	
		TOTAL FUNDING	AGS	279 C	C
73.	163 UHM, ASTRONOMY COMPLEX, RENOVATIONS AND ADDITIONS				
		DESIGN, CONSTRUCTION AND EQUIPPING OF RENOVATIONS AND ADDITIONS TO THE ASTRONOMY COMPLEX			
		DESIGN		40	
		CONSTRUCTION		225	
		EQUIPMENT		20	
		TOTAL FUNDING	AGS	C	285 C
73A.	691 UHM, WAIALEEE LIVESTOCK RESEARCH CENTER, SEWAGE SYSTEM				
		DESIGN AND CONSTRUCTION OF A SECOND OXIDATION POND, REHABILITATE THE EXISTING POND, AND MAKE OTHER NECESSARY REPAIRS.			
		DESIGN		36	
		CONSTRUCTION		350	
		TOTAL FUNDING	AGS	C	386 C
UOH105 - STUDENT SERVICES - UOH, MANOA					
74.	287 UHM, STUDENT SERVICES CENTER				
		DESIGN AND CONSTRUCTION OF FACILITIES TO CENTRALIZE STUDENT SERVICES UNITS WHICH ARE PRESENTLY SCATTERED IN DIFFERENT PARTS OF THE CAMPUS.			
		DESIGN		250	
		TOTAL FUNDING	AGS	250 C	638 C
74A.	288 FIRE SAFETY SYSTEMS, STUDENT HOUSING FACILITIES				
		DESIGN AND CONSTRUCTION FOR THE INSTALLATION OF SPRINKLER SYSTEM AND SMOKE DETECTORS			
		DESIGN		126	
		CONSTRUCTION		2,021	
		TOTAL FUNDING	AGS	A	2,147 A
UOH106 - INSTITUTIONAL SUPPORT - UOH, MANOA					

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
74B.	M63 UHM, CAMPUS-WIDE SECURITY SYSTEM				
	IMPROVEMENTS PHASE II DESIGN AND CONSTRUCTION OF PHASE II OF CAMPUS-WIDE SECURITY SYSTEM IMPROVEMENTS, INCLUDING ILLUMINATION, FENCING, GATES AND ALARMS				
	DESIGN			30	
	CONSTRUCTION			250	
	TOTAL FUNDING	AGS		280	C
75.	277 UHM, REMOVAL, ENCAPSULATION AND ENCLOSURE OF ASBESTOS MATERIALS				
	RENOVATIONS TO UNIVERSITY BUILDINGS WITH IDENTIFIED ASBESTOS HAZARDS				
	DESIGN			315	
	CONSTRUCTION			2,455	
	TOTAL FUNDING	AGS	315	2,455	C
76.	P00088 HAMILTON LIBRARY, REMOVAL OF ASBESTOS				
	CONSTRUCTION FOR THE REMOVAL OR ENCAPSULATION OF ASBESTOS IN HAMILTON LIBRARY.				
	DESIGN			65	
	CONSTRUCTION			660	
	TOTAL FUNDING	AGS	725	C	
77.	250A HAZARDOUS WASTE FACILITY-ACCESS RD & RELATED IMPROV. TO MEET HOSHA, PHASE E3				
	DESIGN AND CONSTRUCTION OF NEW HAZARDOUS WASTE FACILITY. ALSO, DESIGN AND CONSTRUCTION OF ACCESS ROAD TO HAZARDOUS WASTE FACILITY AND OTHER IMPROVEMENTS INCLUDING SAFETY IMPROVEMENTS TO THE EXISTING ROADWAY.				
	DESIGN			45	
	CONSTRUCTION			435	
	TOTAL FUNDING	AGS	480	C	
78.	233 UHM, PARKING STRUCTURE PHASE II				
	DESIGN AND CONSTRUCTION OF THE SECOND PARKING STRUCTURE ON THE MAKAI-MANOA CAMPUS TO ACCOMODATE APPROXIMATELY 1,800 CARS.				
	DESIGN			1,052	
	TOTAL FUNDING	AGS		1,052	C
79A.	273B KOREAN STUDIES CENTER, AIR CONDITIONING OF THIRD FLOOR, MANOA CAMPUS				
	DESIGN AND CONSTRUCTION OF AIR CONDITIONING SYSTEM FOR THE THIRD FLOOR OF THE KOREAN STUDIES CENTER				
	DESIGN			17	
	CONSTRUCTION			100	
	TOTAL FUNDING	AGS		117	C
80.	284 UHM-PARKING STRUCTURE, SPALDING HALL				
	DESIGN AND CONSTRUCTION OF A PARKING STRUCTURE IN THE PRESENT SPALDING HALL PARKING LOT. (NOT LESS THAN 50% OF PARKING SPACES SHALL BE SET ASIDE FOR STUDENT USE).				

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		DESIGN		124	
		CONSTRUCTION			1,368
		TOTAL FUNDING	AGS	124 C	1,368 C
81.	279 UHM,	REPLACEMENT OF TRANSFORMERS WITH PCB			
		REPLACEMENT OF TRANSFORMERS WITH PCB A RECOGNIZED CARCINOGEN, TO MEET EPA REGULATIONS.			
		DESIGN		45	45
		CONSTRUCTION		450	450
		TOTAL FUNDING	AGS	495 C	495 C
82.	280 UHM,	MODIFICATIONS TO EXISTING AND/OR ADDITION OF NEW FACILITIES TO MEET HOSHA			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR MODIFICATIONS TO EXISTING FACILITIES AND/OR CONSTRUCTION OF NEW FACILITIES TO MEET HOSHA AND OTHER CODE REQUIREMENTS.			
		DESIGN		77	58
		CONSTRUCTION		570	364
		TOTAL FUNDING	AGS	647 C	422 C
UOH211 - INSTRUCTION - UOH, HILO					
82A.	336 PESTICIDE STORAGE, HANDLING, DISPOSAL BLDG, UHH				
		PESTICIDE STORAGE, HANDLING AND DISPOSAL BLDG UNIVERSITY OF HAWAII AT HILO, AGRICULTURE FARM LAB CONSTRUCTION OF NEW FACILITY FOR PROPER HANDLING, STORAGE, AND DISPOSAL OF PESTICIDE USED IN AGRICULTURE FARM LAB.			
		PLANS		5	
		DESIGN		8	
		CONSTRUCTION		45	
		EQUIPMENT		15	
		TOTAL FUNDING	AGS	C	73 C
82B.	338 RENOVATON OF LIFE SCIENCES BLDG & WENTWORTH HALL, UHH				
		RENOVATION OF LIFE SCIENCES BLDG & WENTWORTH HALL UNIVERSITY OF HAWAII AT HILO CONVERSION OF AN INCINERATOR ROOM INTO TEACHING LAB IMPROVEMENT OF VENTILATION FOR REMOVAL OF TOXIC CHEMICAL FUMES IN SEVERAL ROOMS. MODIFICAION OF THESE ROOMS FOR MORE EFFECTIVE USE BY INSTRUCTIONAL PROGRAMS.			
		DESIGN		31	
		CONSTRUCTION		311	
		EQUIPMENT		10	
		TOTAL FUNDING	AGS	C	352 C
83.	GENERAL INSTRUCTION FACILITIES WEST HAWAII				
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR NEW INSTRUCTIONAL FACILITIES AT WEST HAWAII CAMPUS, KAILUA, KONA.			
		DESIGN		133	
		TOTAL FUNDING	AGS	133 C	C

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
84.	P00094	UHH-HAWAII COMMUNITY COLLEGE RELOCATION, PHASE IIA			
DESIGN, CONSTRUCTION, FURNITURE AND EQUIPMENT FOR THE INCREMENTAL RELOCATION OF HAWAII COMMUNITY COLLEGE PROGRAMS TO THE UNIVERSITY OF HAWAII AT HILO CAMPUS.					
		DESIGN		32	
		CONSTRUCTION		1	
		EQUIPMENT		350	
		TOTAL FUNDING	AGS	383	C
UOH215 - STUDENT SERVICES - UOH, HILO					
85.	P00095	STUDENT HOUSING FACILITIES			
CONSTRUCT STUDENT HOUSING UNITS.					
		DESIGN		800	
		CONSTRUCTION		8,700	
		TOTAL FUNDING	AGS	9,500	C
85A.		STUDENT HOUSING FACILITIES, PHASE II, UHH			
DESIGN OF STUDENT HOUSING FACILITIES AT UNIVERSITY OF HAWAII AT HILO, PHASE II.					
		DESIGN		1,500	
		TOTAL FUNDING	AGS	1,500	C
85B.		BASEBALL GRANDSTAND, UHH			
PLANNING AND DESIGN FUNDS FOR PHASE II COMPLETION OF GRANDSTAND FOR BASEBALL FIELD AT UHH TO INCLUDE, BUT NOT LIMITED TO LOCKERS, SHOWER FACILITIES, BATHROOMS A CANOPY COVERING FOR BLEACHERS, AND LIGHTING FOR PARK AND GRANDSTAND.					
		PLANS		50	
		DESIGN		200	
		TOTAL FUNDING	AGS	250	C
UOH216 - INSTITUTIONAL SUPPORT - UOH, HILO					
86.	441	UHH, REMOVAL, ENCAPSULATION AND ENCLOSURE OF ASBESTOS MATERIALS			
DESIGN AND CONSTRUCTION FOR THE REMOVAL, ENCAPSULATION OR ENCLOSURE OF ASBESTOS MATERIAL IN THE AUDITORIUM-THEATER.					
		DESIGN		10	
		CONSTRUCTION		1,272	
		TOTAL FUNDING	AGS	10	C
				1,272	C
UOH301 - INSTRUCTION - HONOLULU COMMUNITY COLLEGE					
87.		HCC, RENOVATION OF BUILDING 803			
RENOVATION OF BUILDING 803 TO MEET PROGRAM REQUIREMENTS AND PROVIDE FOR EXPANSION OF PROGRAMS.					
		CONSTRUCTION		600	

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		TOTAL FUNDING	AGS	600 C	C

UOH311 - INSTRUCTION - KAPIOLANI COMMUNITY COLLEGE

88. B-102 KAPIOLANI CC, DIAMOND HEAD - NEW CAMPUS DEV.

DESIGN, CONSTRUCTION, FURNITURE AND EQUIPMENT FOR NEW FACILITIES INCLUDING SITE WORK, UTILITIES, ROADWAYS AND BUILDINGS AND OFFSITE ROADWAY IMPROVEMENTS AND CHILD CARE FACILITIES.

DESIGN		637
CONSTRUCTION	12,274	5,071
EQUIPMENT	1	1
TOTAL FUNDING	AGS 12,000 A	A
	AGS 275 C	C

89. KAPIOLANI CC, DIAMOND HEAD - NEW CAMPUS DEVELOPMENT

EQUIPMENT FOR FOOD SERVICE BUILDING (G-2).

EQUIPMENT	700	
TOTAL FUNDING	AGS 700 A	A

90. KAPIOLANI CC, DIAMOND HEAD - NEW CAMPUS DEVELOPMENT

EQUIPMENT FOR MEDIA CENTER BUILDING (F-2).

EQUIPMENT	270	
TOTAL FUNDING	AGS 270 C	C

UOH315 - INSTITUTIONAL SUPPORT - KAPIOLANI CC

90A. B-102 KAPIOLANI CC, DIAMOND HEAD - NEW MAINTENANCE FACILITY

DESIGN, CONSTRUCTION, FURNITURE AND EQUIPMENT FOR NEW MAINTENANCE FACILITY INCLUDING SITWORK, UTILITIES, BUILDINGS AND ROADWAYS.

DESIGN	55	
CONSTRUCTION	648	
EQUIPMENT	90	
TOTAL FUNDING	AGS C	C

UOH505 - INSTITUTIONAL SUPPORT-MAUI COMMUNITY COLLEGE

91. M77 MAUI COMMUNITY COLLEGE - MASTER PLAN UPDATE

PLANS AND STUDIES FOR UPDATING MASTER PLAN AND FOR PREPARATION OF ENVIRONMENTAL ASSESSMENT.

PLANS	200	
TOTAL FUNDING	AGS C	C

UOH604 - STUDENT SERVICES-KAUAI COMMUNITY COLLEGE

91A. DAY CARE CENTER

DESIGN, CONSTRUCTION AND EQUIPMENT FOR A PORTABLE BUILDING FOR A DAY CARE CENTER AT KAUAI COMMUNITY COLLEGE.

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		DESIGN			7
		CONSTRUCTION			104
		EQUIPMENT			9
		TOTAL FUNDING	AGS		120 C

UOH605 - INSTITUTIONAL SUPPORT - KAUAI CC**92. P00100 KAUAI COMMUNITY THEATRE**

DESIGN, CONSTRUCTION AND EQUIPMENT FOR A THEATRE-LEARNING CENTER FACILITY AT KAUAI COMMUNITY COLLEGE, COMMUNITY THEATRE.

DESIGN	331	
CONSTRUCTION		8,047
EQUIPMENT		2
TOTAL FUNDING	331	C 8,049

UOH906 - COMMUNITY COLLEGE SYSTEMWIDE SUPPORT**93. C-01 COMMUNITY COLLEGES SUPPORT - REPLACEMENT OF PCB TRANSFORMERS.**

DESIGN AND CONSTRUCTION TO REMOVE AND DISPOSE OF ELECTRICAL TRANSFORMERS AND OTHER EQUIPMENT CONTAINING PCB AND REPLACING WITH NON-PCB EQUIPMENT.

DESIGN	31	
CONSTRUCTION	205	
TOTAL FUNDING	236	C

94. C-03 COMMUNITY COLLEGES SUPPORT - ASBESTOS REMOVAL.

DESIGN AND CONSTRUCTION TO RENOVATE COMMUNITY COLLEGE BUILDINGS TO REMOVE, ENCAPSULATE AND/OR ENCLOSE ASBESTOS MATERIALS.

DESIGN	25	
CONSTRUCTION	125	
TOTAL FUNDING	150	C

H. CULTURE AND RECREATION**CCA701 - HAWAII PUBLIC BROADCASTING****1. HAWAII PUBLIC BROADCASTING TOWER**

CONSTRUCTION TO REPLACE THE KHET-TV TRANSMITTER TOWER ON MT. KAHILI, KAUAI.

CONSTRUCTION	65	
TOTAL FUNDING	65	C

1A. HPBA05 HPBA STATEWIDE, INTERACTIVE, CLOSED-CIRCUIT, EDUCATIONAL TELEVISION SYSTEM

CONSTRUCT HPBA STATEWIDE, INTERACTIVE, CLOSED-CIRCUIT, EDUCATIONAL TELEVISION SYSTEM USING "INSTRUCTIONAL TELEVISION FIXED SERVICE" (ITFS) FREQUENCIES RESERVED FOR EDUCATIONAL USE BY THE FEDERAL COMMUNICATIONS COMMISSION.

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		LAND			162
		DESIGN			20
		CONSTRUCTION			1,675
		EQUIPMENT			20
		TOTAL FUNDING	AGS	C	1,877 C
LNR804 - FOREST RECREATION					
2.	D07	FOREST VIEWPOINT DEVELOPMENT AND RESTSTOP OAHU			
		DEVELOP VIEWPOINTS AND RESTSTOPS FOR HIKERS. THIS WOULD INVOLVE MINOR EXCAVATION ALONG ESTABLISHED TRAILS AND CONSTRUCTION OF A BENCH APPROXIMATELY EIGHTEEN INCHES HIGH AND FIVE FEET WIDE USING TELEPHONE-TYPE POLES AS THE LEGS AND 2X8 REDWOOD LUMBER OR EQUIVALENT AS THE SEAT.			
		PLANS		10	
		DESIGN		4	
		CONSTRUCTION			
		TOTAL FUNDING	LNR	14 C	14 C
3.	D20	FOREST FACILITY - WATERLESS COMPOSTING TOILET SYSTEM MOKULEIA, OAHU			
		CONSTRUCT A CLIVUS MULTRUM, A WATERLESS COMPOSTING TOILET SYSTEM AT THE MOKULEIA FOREST RESERVE CAMPGROUND.			
		CONSTRUCTION		18	
		TOTAL FUNDING	LNR	18 C	C
4.	D51	MAUNA KEA GAME MANAGEMENT AREA ACCESS ROAD			
		INSTALLATION OF A ROCK BASE APPROXIMATELY 12 INCHES THICK AND 10 FEET WIDE ON APPROXIMATELY 4.5 MILES OF EXISTING DIRT ACCESS ROAD FROM THE SADDLE ROAD TO THE PUU LAAU SECTION OF THE MAUNA KEA GAME MANAGEMENT AREA TO PROVIDE A PERMANENT ROAD BASE CAPABLE OF ACCOMMODATING VEHICULAR TRAFFIC FOR MANAGEMENT, HUNTING, AND OTHER RECREATIONAL PURPOSES.			
		PLANS		5	
		DESIGN		10	
		CONSTRUCTION		320	
		TOTAL FUNDING	LNR	335 C	C
5.	D-03	FOREST SHELTERS			
		DEVELOP SELECTED SITES TO PROVIDE A PLACE FOR WILDERNESS PICKNICKING, RESTING, AND CAMPING. MAY INCLUDE ANY OF THE FOLLOWING: TRAIL SHELTER UNITS WITH TABLE OR COMFORT STATION ETC.			
		PLANS		4	
		DESIGN		2	
		CONSTRUCTION		30	
		TOTAL FUNDING	LNR	36 C	C
6.	D02K	FOREST TRAILS, KAUAI			
		TRAILS ARE CONSTRUCTED ON AN INCREMENTAL BASIS. TRAILS ARE AT LEAST THREE FEET WIDE AND CLEARED			

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		FOR EASY ACCESS. TRAILS PROVIDE: REMOTE OUTDOOR RECREATION OPPORTUNITIES, ACCESS FOR CONTROL OF FIRE AND PESTS, ROUTE FOR RESCUE OPERATIONS, ETC.			
		PLANS		6	
		DESIGN		2	
		CONSTRUCTION		70	
		TOTAL FUNDING	LNR	78 C	C
7.	D020	FOREST TRAILS, OAHU			
		TRAILS ARE CONSTRUCTED ON AN INCREMENTAL BASIS. TRAILS ARE AT LEAST TWO FEET WIDE AND CLEARED FOR EASY ACCESS. TRAILS PROVIDE: REMOTE OUTDOOR RECREATION OPPORTUNITIES, ACCESS FOR CONTROL OF FIRE AND PESTS, AND ROUTE FOR RESCUE OPERATIONS.			
		DESIGN		5	
		CONSTRUCTION			40
		TOTAL FUNDING	LNR	5 C	40 C
8.	D040	FOREST FENCE-MANOA FALLS, OAHU			
		PLANNING, DESIGN AND CONSTRUCTION OF FOREST TRAIL FOOTBRIDGE. NEW BRIDGE NEEDED TO REPLACE EXISTING WOODEN BRIDGE. NEW BRIDGE WILL BE CONCRETE, APPROXIMATELY 45 FEET LONG AND 6 FEET WIDE.			
		PLANS		6	
		DESIGN		6	
		CONSTRUCTION			30
		TOTAL FUNDING	LNR	12 C	30 C
		LNR806 - HERITAGE & RECREATION PARKS			
9.	F08	NUU BAY, MAUI			
		ACQUISITION AND DEVELOPMENT OF THIS BAY. THE SITE IS OF ARCHAEOLOGICAL VALUE, OFFERS LIMITED OPPORTUNITIES FOR WATER RECREATION ACTIVITIES, AND IS THE LAST KNOWN RECREATION RESOURCE ON THE EXISTING ROAD FROM KAUPO TO ULUPALAKUA.			
		PLANS		50	
		LAND		20	
		TOTAL FUNDING	LNR		70 C
10.	F09	AHUKINI PIER, KAUAI			
		DESIGN AND CONSTRUCTION OF RESTROOM, LIGHTING AND ASSOCIATED UTILITIES AS NEEDED.			
		CONSTRUCTION		200	
		TOTAL FUNDING	LNR	200 C	C
11.	F11	IOLANI PALACE RESTORATION			
		LANDSCAPING OF PALACE GROUNDS AND REMODELING OF KAMAINA BUILDING AS AN OFFICE AND ORIENTATION BUILDING. ESTABLISH A CARRIAGE ROAD REPLACING EXISTING ROAD/PARKING AREAS. RESTORATION OF PALACE BASEMENT AND BARRACKS AND MISCELLANEOUS IMPROVEMENTS.			
		DESIGN		50	
		CONSTRUCTION		250	
		TOTAL FUNDING	LNR		300 C

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
11A.	F12	RUSSIAN FORT, KAUAI			
		RESTORATION OF RUSSIAN FORT ELIZABETH, A NATIONAL HISTORICAL LANDMARK. INCLUDING INCREMENTAL PLANNING AND RESTORATION, STABILIZATION, CONSTRUCTION AND INTERPRETIVE FEATURES INCLUDING PUBLIC ACCESS AND USE OF THE FACILITIES.			
		PLANS		25	
		DESIGN		25	
		TOTAL FUNDING	LNR	C	50 C
12.	F13	LAPAKAHI NORTH KOHALA STATE PARK COMPLEX			
		LAND ACQUISITION, PLANNING, RESEARCH, AND INCREMENTAL DEVELOPMENT OF THE NORTH KOHALA ARCHAEOLOGICAL AND HISTORIC SITES WHICH OFFERS AN OPPORTUNITY FOR PUBLIC INTERPRETATION OF EARLY HAWAIIAN FISHING AND FARM SYSTEM. OTHER FEATURES INCLUDE KAMEHAMEHA'S BIRTHPLACE, MOOKINI HEIAU AND OTHER FEATURES IN THE AREA.			
		LAND		300	
		DESIGN			20
		TOTAL FUNDING	LNR	300 C	20 C
13.	F14	KEALAKEKUA BAY, HAWAII			
		INCREMENTAL ACQUISITION, PLANNING, RESEARCH AND DESIGN FOR A PARK COMPRISING THE MOST IMPORTANT HISTORIC AND ARCHAEOLOGIC PLACE IN THE ENTIRE STATE, PLANNING AND RESEARCH FOLLOWED BY PARK DEVELOPMENT, CONTINUED RESEARCH AND INTERPRETIVE FACILITIES.			
		PLANS		100	
		DESIGN		65	
		CONSTRUCTION			300
		TOTAL FUNDING	LNR	165 C	300 C
14.	F15	ROYAL MAUSOLEUM-NUUANU PETROGLYPHS, OAHU			
		PLANS AND RESEARCH OF SITE INCLUDING INTERPRETATION OF HISTORIC AND ARCHAEOLOGIC VALUES, RESTORATION OF CRYPT, LANDSCAPING, REPLACEMENT OF CARETAKERS HOUSE AND RESTROOMS AND OTHER IMPROVEMENTS.			
		CONSTRUCTION		400	
		TOTAL FUNDING	LNR	400 C	C
15.	F21	HALEKII-PIHANA HEIAU, MAUI			
		PLANNING AND RESEARCH FOR ARCHAEOLOGICAL FEATURES AND THEIR INTERPRETATION, LANDSCAPING, STABILIZATION, RESTORATION AND CONSTRUCTION OF INTERPRETIVE FACILITIES AS DETERMINED BY PLANNING. ACQUISITION OF ADJOINING LAND TO PROTECT THE FEATURES FROM STREAMBANK EROSION AND PROVIDE SITE INTEGRITY.			
		PLANS		20	
		LAND		20 C	
		TOTAL FUNDING	LNR	20 C	20 C
16.	F23	PUU O MAHUKA HEIAU, OAHU			

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		RESEARCH & INTERPRETATION OF EXISTING PARK- LANDSCAPING IMPROVEMENT. LAND ACQUISITION TO MAINTAIN THE INTEGRITY OF THE SITE.			
		PLANS		25	
		LAND		10	
		DESIGN		15	
		TOTAL FUNDING	LNR	50 C	C
17.	F24	ULU PO HEIAU, OAHU			
		PLANS/RESEARCH AND FACILITY DEVELOPMENT FOR INTERPRETATION OF EXISTING PARK AND PROPOSED LAND ACQUISITION FOR STATE PARK/PRESERVATION PURPOSES.			
		CONSTRUCTION		150	
		TOTAL FUNDING	LNR	150 C	C
18.	F27	HEEIA STATE PARK, OAHU			
		PLANNING AND DEVELOPMENT OF MATSON POINT, AS A MAJOR PARK AND EDUCATIONAL/ CULTURAL CENTER. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.			
		PLANS		100	
		TOTAL FUNDING	LNR	100 C	C
19.	F29	KUKANILOKO BIRTHSITE, WAHIAWA, OAHU			
		LAND ACQUISITION TO BE FOLLOWED BY PLANNING, RESEARCH AND APPROPRIATE DEVELOPMENT FOR A STATE HISTORICAL MONUMENT.			
		LAND		50	
		TOTAL FUNDING	LNR	50 C	C
20.	F30	NUUANU PALI STATE PARK, OAHU			
		IMPROVEMENTS FOR EXISTING LOOKOUT AREA, INCLUDING INTERPRETIVE FACILITIES. PARK EXPANSION TO INCLUDE THE AREA BETWEEN THE PALI GOLF COURSE AND EXISTING OVERLOOK.			
		DESIGN		20	
		CONSTRUCTION			200
		TOTAL FUNDING	LNR	20 C	200 C
21.	F33	WAILUKU RIVER STATE PARK, HAWAII			
		DEVELOPMENT OF LANDSCAPING, LOOKOUTS, TRAILS, PICNICKING AND OTHER FACILITIES; DEVELOPMENT OF AN INTERPRETIVE MASTER PLAN AND MANAGEMENT PLAN.			
		PLANS		50	
		DESIGN		10	
		CONSTRUCTION		50	
		TOTAL FUNDING	LNR	110 C	C
22.	F34	LAVA TREE STATE MONUMENT, HAWAII			
		LANDSCAPE AND OTHER PARK IMPROVEMENTS, INSTALL WATER SYSTEM AND GENERALLY REFURBISH PARK AND INTERPRETIVE PLANNING/MANAGEMENT PLANNING FOLLOWED BY INTERPRETIVE PROGRAM			
		PLANS		25	
		DESIGN		10	
		CONSTRUCTION			50

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		TOTAL FUNDING	LNR	35 C	50 C
23.	F35	AKAKA FALLS, HAWAII			
		DEVELOP A MASTER PLAN FOR THIS EXISTING PARK. CONSIDER IMPROVEMENTS SUCH AS PARK EXPANSION TO A NEW LOOKOUT AREA. AN INTERPRETIVE PROGRAM, REDESIGN OF EXISTING LOOKOUT AND TRAIL DEVELOPMENT.			
		DESIGN		25	
		CONSTRUCTION		100	150
		TOTAL FUNDING	LNR	125 C	150 C
24.	F37	DIAMOND HEAD, OAHU			
		ANTICIPATED IMPROVEMENTS INCLUDE TRAIL DEVELOPMENT, PARKING, LANDSCAPING AND INTERPRETIVE PROGRAM. EXPANSION OF RESTROOM AND OTHER NEEDS. ADDITIONAL PLANNING AND PARK BOUNDARY SURVEY IS REQUIRED.			
		PLANS			20
		DESIGN		40	
		CONSTRUCTION		250	250
		TOTAL FUNDING	LNR	290 C	270 C
25.	F46	KOKEE/WAIMEA CANYON COMPLEX, KAUAI			
		INCLUDES KOKEE AND WAIMEA CANYON STATE PARKS. CONTINUED PARK DEVELOPMENT AND REPLACEMENT OF OLDER FACILITIES, MASTER PLAN FOR THE IMPROVEMENT AND MANAGEMENT OF THE PARK. ADDITION OF INTERPRETIVE FACILITIES.			
		DESIGN		25	50
		CONSTRUCTION		250	
		TOTAL FUNDING	LNR	275 C	50 C
26.	F51	MAKIKI-TANTALUS STATE PARK, OAHU			
		INCREMENTAL DEVELOPMENT PER MASTER PLAN. RENOVATIONS AND IMPROVEMENTS TO EXISTING PUU UALAKAA AREA AND DEVELOPMENT OF NEW LOOKOUTS, TRAIL HUB PARKS AND CAMP GROUNDS.			
		DESIGN		30	
		CONSTRUCTION		250	300
		TOTAL FUNDING	LNR	30 C	300 C
27.	F53	KALOPA STATE RECREATION AREA, HAWAII			
		IMPROVE AND PAVE ROADWAYS AND PARKING AREAS. DEVELOP NATURE TRAILS. GENERAL RENOVATIONS INCLUDING THE RELOCATION OF THE CAMPGROUND AND IMPROVEMENTS.			
		DESIGN		25	
		CONSTRUCTION		250	
		TOTAL FUNDING	LNR	275 C	C
28.	F54	WAILUA RIVER STATE PARK, KAUAI			
		LAND ACQUISITION OF INHOLDINGS. ARCHAEOLOGICAL- BIOLOGICAL RESEARCH, DEVELOPMENT OF INTERPRETIVE PROGRAM AND FACILITIES ACCORDING TO MASTER PLAN INCL. FERN GROTTO, LYDGATE BEACH MARINA AND			

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		OTHER AREAS ALONG WAILUA RIVER. UPDATE MASTER PLAN & PROVIDE MANAGEMENT PLAN. RECONSTRUCTION OF PARK FACILITIES.			
		DESIGN		20	50
		CONSTRUCTION		250	500
		TOTAL FUNDING	LNR	270 C	550 C
29.	F55	WAIANAPANAPA STATE PARK, MAUI			
		INCREMENTAL ACQUISITION & DEVELOPMENT OF MAJOR PARK WITH OUTSTANDING SCENIC AND HISTORIC VALUES INCLUDING PICNIC AREAS, CAMPGROUND AND LOW COST VACATION FACILITIES. DEVELOPMENT AND MANAGEMENT OF THE PARK, RECONSTRUCTION AND LIGHTING. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.			
		PLANS		50	
		LAND		500	
		DESIGN			25
		CONSTRUCTION			250
		TOTAL FUNDING	LNR	550 C	275 C
30.	F57	KAHANA VALLEY STATE PARK, OAHU			
		INCREMENTAL DEVELOPMENT INCLUDING HISTORIC RESTORATION, WATER FEATURES, AND OTHER RECREATION AND CULTURAL AND HERITAGE OPPORTUNITIES PER MASTER PLAN AND ADOPTED PROPOSALS FOR HISTORICAL, ENVIRONMENTAL, CULTURAL INTERPRETATION/ EDUCATION PROGRAMS. PLANNING AND RESEARCH BY ADVISORY COUNCIL AND OTHERS.			
		PLANS		50	
		CONSTRUCTION			500
		TOTAL FUNDING	LNR	50 C	500 C
31.	F64	MAUNA KEA RECREATION COMPLEX, HAWAII			
		PLAN, DESIGN AND IMPROVE EXISTING FACILITIES AT POHAKULOA.			
		DESIGN		25	
		CONSTRUCTION		250	
		TOTAL FUNDING	LNR	275 C	C
32.	F71	WAIMANALO BAY STATE RECREATION AREA, OAHU			
		INCREMENTAL DEVELOPMENT OF BEACH PARK FOR CAMPING AND PICNICKING. INFRASTRUCTURE FOR POSSIBLE CABIN CONCESSION.			
		DESIGN		30	
		CONSTRUCTION			300
		TOTAL FUNDING	LNR	30 C	300 C
33.	F72	KAENA POINT STATE PARK, OAHU			
		INCREMENTAL ACQUISITION OF PRIVATE LANDS, DEVELOPMENT OF BEACH PARKS FROM MAKUA TO MOKULEIA. ALSO INCLUDES FUNDS FOR TEMPORARY MANAGEMENT OF SHORELINE AREAS TO CONTROL EXISTING PUBLIC USE. INCLUDES UPLAND PEACOCK FLATS AREA AS PER MASTER PLAN.			
		DESIGN			75

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				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		TOTAL FUNDING	LNR	C	75 C
34.	F73	MAKENA-LAPEROUSE STATE PARK, MAUI			
		INCREMENTAL ACQUISITION OF LAND AS PER CONCEPTUAL PLAN. PROTECTION OF ARCHAEOLOGICAL AND BIOLOGICAL FEATURES. INCREMENTAL DEVELOPMENT TO INCLUDE INTERPRETATION OF THESE FEATURES AS WELL AS TO PROVIDE FACILITIES FOR RECREATION OPPORTUNITIES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.			
		LAND		3,000	8,600
		DESIGN		50	
		TOTAL FUNDING	LNR	3,000	8,600
			LNR	C	A
				50	50 C
35.	F74	HAENA BEACH STATE PARK, KAUAI			
		INCREMENTAL DEVELOPMENT OF HISTORIC AND RECREATION OPPORTUNITIES INCLUDING PLANNING, RESEARCH, DESIGN AND CONSTRUCTION OF FACILITIES & INTERPRETIVE PROGRAMS. POSSIBLE LAND ACQUISITION FOR PARK EXPANSION			
		DESIGN		5	
		CONSTRUCTION			45
		TOTAL FUNDING	LNR	5 C	45 C
36.	F75	HAPUNA BEACH STATE PARK, HAWAII			
		PLANS, DESIGN AND CONSTRUCTION, INCLUDING ACQUISITION OF LAND, IN WAILEA BAY AREA, AS PER MASTER PLAN.			
		PLANS		25	
		LAND		500	
		DESIGN			50
		CONSTRUCTION		500	
		TOTAL FUNDING	LNR	500	A
			LNR	25	C
				550	C
36A.		HAPUNA BEACH STATE RECREATION AREA, HAWAII			
		PLANS AND DESIGN OF THE HAPUNA BEACH STATE RECREATION AREA FOR PUBLIC BEACH PARKS AND AN 18-HOLE GOLF COURSE.			
		PLANS		150	
		DESIGN		800	
		TOTAL FUNDING	LNR		950 C
37.	F78	POLIHALE STATE PARK, KAUAI			
		INCREMENTAL DEVELOPMENT OF EXISTING BEACH PARK. PLANS, RESEARCH AND RENOVATION, RELOCATION OR REMOVAL OF EXISTING FACILITIES IN UNSTABLE SAND DUNE AREAS.			
		PLANS		30	
		DESIGN			20
		TOTAL FUNDING	LNR	30	C
38.	F79	KIHOLO BAY STATE PARK, HAWAII			

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
ACQUISITION OF PRIVATE INHOLDINGS, MASTER PLAN AND CONSTRUCTION OF INITIAL AREA.					
		PLANS			100
		TOTAL FUNDING	LNR	C	100 C
39.	F81	PAPALAU-A-KAANAPALI WAYSIDES & BEAUTIFICATION, MAUI			
INCREMENTAL DEVELOPMENT AND RENOVATION OF WAYSIDE PARKS AND BEAUTIFICATION OF SCENIC HIGHWAY FROM UKUMEHAME TO KAANAPALI. EXISTING PARKS INCLUDE WAHIKULI, PAPALAU AND LAUNIUPOKO WAYSIDES.					
		DESIGN		15	25
		CONSTRUCTION		50	
		TOTAL FUNDING	LNR	65 C	25 C
39A.	F82	WAIMEA PIER, KAUAI			
PLANS AND CONSTRUCTION FOR THE RECONSTRUCTION OF WAIMEA LANDING FOR RECREATIONAL PURPOSES. INCLUDES DEVELOPMENT ONSHORE FOR PARKING, RESTROOM FACILITIES, AND LANDSCAPING. POSSIBLE ACQUISITION OF ADJOINING LAND					
		LAND			20
		TOTAL FUNDING	LNR	C	20 C
40.	F83	AIEA BAY, OAHU			
BACKGROUND INVESTIGATION AND PLANNING FOR CONVERSION OF AIEA BAY INTO "RAINBOW BAY - A KOKUA CONCEPT" AS REQUESTED BY THE PEARL HARBOR TASK FORCE. FUNDING INCLUDED FOR ANTICIPATED DEVELOPMENT OF LAND AREA BORDERING AIEA BAY. MAXIMUM OF 40 ACRES AVAILABLE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.					
		DESIGN		15	
		CONSTRUCTION			500
		TOTAL FUNDING	LNR	15 C	500 C
41.	F85	AINA MOANA STATE RECREATION AREA, OAHU			
IMPROVEMENTS TO EXISTING PARK INCLUDING ADDITIONAL LANDSCAPING, AND COMPLETION OF STORAGE BUILDING.					
		DESIGN		35	
		CONSTRUCTION			200
		TOTAL FUNDING	LNR	35 C	200 C
42.	F88	KAIAKA POINT, OAHU			
DEVELOPMENT OF BEACH PARK AT KAIAKA AS PER MASTER PLAN. INCLUDES PLAN ALTERATIONS FOR A MAINTENANCE BUILDING AND OVERFLOW PARKING AREA. POSSIBLE INFRASTRUCTURE FOR CABIN CONCESSION.					
		PLANS		25	
		DESIGN		25	
		TOTAL FUNDING	LNR	50 C	50 C
43.	H18	KAMOA POINT ARCHAEOLOGICAL COMPLEX, HAWAII			

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		PLANNING, ARCHAEOLOGICAL RESEARCH, STABILIZATION, RESTORATION AND INTERPRETATION; DEVELOPMENT AND PROTECTION.			
		PLANS		50	
		DESIGN		50	
		CONSTRUCTION		125	
		TOTAL FUNDING	LNR	225 C	125 C
44.	H45	SACRED FALLS STATE PARK, OAHU			
		PLANS AND CONSTRUCTION FOR INCREMENTAL DEVELOPMENT OF PARK FACILITIES AS PER MASTER PLAN. ACQUISITION OF LAND FOR PARK ROAD ACCESS.			
		LAND		250	
		DESIGN			50
		TOTAL FUNDING	LNR	250 C	50 C
44A.		LAIE POINT STATE PARK			
		LAND ACQUISITION FOR THE ESTABLISHMENT OF LAIE POINT STATE PARK.			
		LAND			700
		TOTAL FUNDING	LNR	C	700 C
45.	H68	MAKAPUU POINT, OAHU			
		PLANS, BOUNDARY SURVEY AND CONSTRUCTION ON LANDS TO BE TURNED OVER TO THE STATE BY THE FEDERAL GOVERNMENT. CONSTRUCTION TO INCLUDE REPAIR OF EXISTING FACILITIES. PLANS AND APPRAISAL FOR ACQUISITION OF ADDITIONAL ADJOINING LANDS.			
		PLANS		50	
		LAND		50	
		DESIGN		25	
		CONSTRUCTION		50	
		TOTAL FUNDING	LNR	175 C	150 C
47.	H80	HANALEI RECREATIONAL PIER, HANALEI, KAUAI			
		RECONSTRUCTION OF HANALEI RECREATIONAL PIER.			
		DESIGN		20	
		CONSTRUCTION		300	
		TOTAL FUNDING	LNR	320 C	300 C
48.	H83	WAIKIKI WAR MEMORIAL NATATORIUM, OAHU			
		DESIGN FOR RESTORATION OF NATATORIUM.			
		DESIGN		1,200	
		TOTAL FUNDING	LNR	1,200 A	A
TRN801 - OCEAN-BASED RECREATION					
48A.	CJ BOAT HARBOR & LAUNCHING RAMP AT KAULANA, HAWAII				
		DESIGN & CONSTRUCTION OF A NEW BOAT LAUNCHING FACILITY, INCLUDING DREDGING AND BREAKWATER, AND OTHER RELATED IMPROVEMENTS; ALSO INCLUDED IS THE IN-KIND IMPROVEMENTS FOR LEASE RENTAL OF LANDS. THIS PROJECT QUALIFIES FOR FEDERAL AID/ REIMBURSEMENT.			

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				FISCAL YEAR 1987-88 M O F	FISCAL YEAR 1988-89 M O F	
		CONSTRUCTION				880
		TOTAL FUNDING	TRN	C	80	C
			TRN	N	800	N
48B.	O10	KEEHI BOAT HARBOR, OAHU				
		CORRECT SUBSIDENCE OF BACKUP AREA AND OTHER IMPROVEMENTS.				
		DESIGN				60
		CONSTRUCTION				370
		TOTAL FUNDING	TRN	D	430	D
49.	O20	ALA WAI BOAT HARBOR IMPROVEMENTS, OAHU				
		EXTENSION OF MARGINAL WHARF, IMPROVEMENTS TO TELEPHONE SYSTEM, AND OTHER IMPROVEMENTS.				
		DESIGN				5
		CONSTRUCTION				195
		TOTAL FUNDING	TRN	475	200	D
50.	O1K	NAWILIWILI BOAT HARBOR, KAUAI				
		INSTALL WATER LINE AND OTHER IMPROVEMENTS.				
		DESIGN				15
		CONSTRUCTION				100
		TOTAL FUNDING	TRN	115	D	
51.	O1S	STATEWIDE IMPROVEMENTS TO BOATING FAC.				
		IMPROVEMENTS TO EXISTING BOAT HARBORS AND BOAT REFUGE AREAS.				
		DESIGN				10
		CONSTRUCTION				95
		TOTAL FUNDING	TRN	105	D	105 D
51A.	O2M	MAALAEA BOAT HARBOR IMPROVEMENTS, MAUI				
		MODIFICATIONS AND IMPROVEMENTS TO MAALAEA BOAT HARBOR INCLUDING DREDGING NEW ENTRANCE CHANNEL, ACCESS CHANNEL, BERTHING AREAS, CONSTRUCTION OF PROTECTIVE STRUCTURES, FILL, REVETMENT AND OTHER IMPROVEMENTS. THIS PROJECT QUALIFIES FOR FEDERAL AID FINANCING/ REIMBURSEMENT.				
		DESIGN				105
		CONSTRUCTION				881
		TOTAL FUNDING	TRN	C	355	C
			TRN	N	631	N
52.	O4S	STATEWIDE WASTE OIL FACILITIES				
		CONSTRUCT A SHED FOR COLLECTION/DISPOSAL OF WASTE OIL AND OTHER PETROLEUM PRODUCTS AT VARIOUS BOAT HARBORS.				
		DESIGN				10
		CONSTRUCTION				60
		TOTAL FUNDING	TRN	70	D	70 D
53.	O5S	STATEWIDE PLANNING FOR BOATING FACILITIES				
		CONTINUING STUDIES, RESEARCH AND ADVANCED PLANNING OF BOAT HARBORS ON ALL ISLANDS.				
		PLANS			50	

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		TOTAL FUNDING	TRN	50 D	D
54.	13M	IMPROVEMENTS TO MAALAEA BOAT HARBOR, MAUI			
		PAVING, ELECTRICAL IMPROVEMENTS, CONSTRUCT HARBOR AGENT'S OFFICE AND OTHER IMPROVEMENTS. IMPROVEMENTS AND EXPANSION OF BREAKWATER (TO BE SUPPLEMENTED BY FEDERAL FUNDS).			
		DESIGN		35	20
		CONSTRUCTION		275	80
		TOTAL FUNDING	TRN	310 D	100 D
54A.	14K	NAVIGATIONAL IMPROVEMENTS OF HANALEI RIVER KAUAI			
		DREDGING AND OTHER IMPROVEMENTS AT HANALEI RIVER MOUTH			
		DESIGN			15
		CONSTRUCTION			75
		TOTAL FUNDING	TRN	C	90 C
54B.	16M	RELOCATION OF THE VESSEL CARTHAGINIAN AT LAHAINA HARBOR			
		CONSTRUCT BERTH FOR THE VESSEL CARTHAGINIAN, RECONSTRUCT AND EXTEND PIER AND OTHER IMPROVEMENTS			
		CONSTRUCTION			420
		TOTAL FUNDING	TRN	D	190 C
			TRN		230 D
55.	19H	HONOKOHAU BOAT HARBOR IMPROVEMENTS			
		INSTALL WATER DISTRIBUTION MAIN, CONSTRUCT PAVED ACCESS ROAD AND GRADED PARKING AREA, SECURITY FENCING, AND OTHER IMPROVEMENTS.			
		DESIGN		60	
		CONSTRUCTION		460	
		TOTAL FUNDING	TRN	520 D	D
56.	20M	KAUNAKAKAI BOAT HARBOR IMPROVEMENTS, MOLOKAI			
		PROVIDE ELECTRICAL OUTLETS AND OTHER IMPROVEMENTS.			
		DESIGN			15
		CONSTRUCTION			75
		TOTAL FUNDING	TRN	D	90 D
57.	200	HEEIA-KEA BOAT HARBOR IMPROVEMENTS, OAHU			
		CONSTRUCT OFFICE, EXTEND LOADING DOCK, MODIFY MOORINGS, WATERLINE, CLEAR BACKUP AREA AND OTHER IMPROVEMENTS. IMPROVEMENT AND UPGRADING OF THE HEEIA KEA PIER AND THE PARKING LOT.			
		DESIGN		40	
		CONSTRUCTION		160	
		TOTAL FUNDING	TRN	200 D	D
57A.	22H	WATER SUPPLY SYSTEM FOR HONOKOHAU BOAT HARBOR			

ACT 390**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		PARTICIPATE IN THE COST OF CONSTRUCTING A WATER STORAGE TANK, A DISTRIBUTION PIPING SYSTEM AND RELATED IMPROVEMENTS			
		DESIGN		70	
		CONSTRUCTION		630	
		TOTAL FUNDING	TRN	D	700 D
57B.		IMPROVMENTS TO NAWILIWILI SMALL BOAT HARBOR ACCESS ROAD			
		PLANS, DESIGN AND CONSTRUCTION FOR PAVING AND WIDENING OF THE NAWILIWILI SMALL BOAT HARBOR ACCESS ROAD.			
		DESIGN		1	
		CONSTRUCTION		20	
		TOTAL FUNDING	TRN	C	179 200 C
57C.	23H	PROVIDE BOAT MOORING SYSTEM - KAWAIHAE HARBOR			
		INSTALL MOORING BUOYS, CONSTRUCT MARGINAL WHARF AND ACCOMPLISH OTHER IMPROVEMENTS			
		DESIGN		20	
		CONSTRUCTION		130	
		TOTAL FUNDING	TRN	D	150 D
57D.	300	KEEHI LAGOON IMPROVEMENTS			
		REMOVAL AND DISPOSAL OF SHIP DERELICTS AND OTHER DEBRIS FROM KEEHI LAGOON.			
		DESIGN		50	
		CONSTRUCTION		1,200	
		TOTAL FUNDING	TRN	C	1,250 C
57E.		RENOVATIONS, REPAIRS AND OTHER IMPROVEMENTS TO MALA WHARF, WEST MAUI			
		REPAIR AND UPGRADE MALA WHARF, BOAT LAUNCHING FACILITY, PARKING AREA AND PARK TO ENHANCE THE AREA FOR PUBLIC RECREATIONAL USE.			
		PLANS		20	
		DESIGN		280	
		TOTAL FUNDING	TRN	C	300 C
AGS 889 - SPECTATOR EVENTS & SHOWS - ALOHA STADIUM					
58.	C59	ALOHA STADIUM RENOVATION OF CONCOURSE AND OTHER WALKING AREAS			
		RENOVATE CORRODED AND UNPROTECTED CONCRETE AND METAL DECKS.			
		DESIGN		250	
		CONSTRUCTION		2,800	
		TOTAL FUNDING	AGS	C	3,050 C
58A.	C71	RENOVATION OF LOGE LEVEL AND STRUCTURAL BRACINGS AT ALOHA STADIUM			
		RENOVATE THE LOGE LEVEL AND PROTECT THE CONNECTIONS OF THE EXTERIOR STRUCTURAL BRACINGS FROM FURTHER CORROSION.			

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		DESIGN			230
		CONSTRUCTION			2,000
		TOTAL FUNDING	AGS	C	2,230 C
59A.	ALOHA STADIUM - MASTER PLAN UPDATE				
		PLANS TO UPDATE THE ALOHA STADIUM MASTER PLAN TO INCLUDE PROVISIONS FOR ADDITIONAL SEATING CAPACITY AND RELATED IMPROVEMENTS.			
		PLANS			500
		TOTAL FUNDING	AGS	C	500 C
LNR809	- GENERAL ADMIN FOR CULTURE & RECREATION				
60.	F02 STATEWIDE INTERPRETIVE PLANNING				
		THERE IS NO OVERALL INTERPRETIVE PROGRAM FOR EXISTING STATE PARKS. HISTORIC-ARCHAEOLOGIC PROJECTS UNDERWAY INVOLVE MAJOR INTERPRETIVE PROGRAMS. THESE PROJECTS SHOULD BE COORDINATED. LESS SIGNIFICANT STATE PARK HISTORIC AND NATURAL FEATURES CAN BE INTERPRETED BUT THESE FEATURES MUST BE EVALUATED TO DETERMINE THE NEED AND PRIORITY FOR INTERPRETATION.			
		PLANS		20	
		DESIGN			5
		CONSTRUCTION			10
		TOTAL FUNDING	LNR	20 C	15 C
60A.	F05 SCORP (STATE COMPREHENSIVE OUTDOOR RECREATION PLAN)				
		CONTINUOUS UPDATING OF THE STATE COMPREHENSIVE OUTDOOR RECREATION PLAN TO QUALIFY FOR FEDERAL GRANTS UNDER THE LAND AND WATER CONSERVATION FUND. ALSO REFINE AND IMPLEMENT THE GOALS, OBJECTIVES AND POLICIES OF THE HAWAII STATE PLAN AS PROVIDED IN CHAPTER 226, HAWAII REVISED STATUTES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.			
		PLANS			100
		TOTAL FUNDING	LNR	C	50 C
			LNR	N	50 N
61.	H08 STATEWIDE FACILITIES FOR THE HANDICAPPED				
		CONSTRUCTION OF FACILITIES AND/OR RECONSTRUCTION OF EXISTING FACILITIES TO AID THE HANDICAPPED.			
		DESIGN		15	
		CONSTRUCTION		75	
		TOTAL FUNDING	LNR	90 C	75 C
61A.	STATE SHOOTING RANGE, OAHU				
		PLANS, DESIGN, LAND ACQUISITION, CONSTRUCTION AND EQUIPMENT TO BUILD A STATE SHOOTING RANGE ON OAHU. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.			
		PLANS		1	
		LAND		1	
		DESIGN		90	

ACT 390**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		CONSTRUCTION		783	
		EQUIPMENT		25	
		TOTAL FUNDING	LNR		900 C
61B.		PROFESSIONAL BASEBALL TRAINING FACILITY, EWA, OAHU			
		PLANS AND DESIGN FOR A BASEBALL TRAINING FACILITY AS PART OF THE CENTRAL OAHU/EWA PLAINS DEVELOPMENT. (TO BE USED BY THE COMMUNITY WHEN NOT IN USE BY PROFESSIONALS)			
		PLANS		50	
		DESIGN		250	
		TOTAL FUNDING	AGS		300 C
62.	H09 STATEWIDE MINOR IMPROVEMENTS				
		MINOR ADDITIONS, RENOVATIONS AND IMPROVEMENTS TO PARK FACILITIES.			
		DESIGN		15	15
		CONSTRUCTION		150	150
		TOTAL FUNDING	LNR	165 C	165 C

I. PUBLIC SAFETY**DOC402 - HALAWA CORRECTIONAL FACILITY**

1. P00052 HALAWA MEDIUM SECURITY FACILITY INDOOR
RECREATIONAL FACILITY

DESIGN, CONSTRUCT AND EQUIP AN INDOOR
RECREATIONAL FACILITY FOR THE HALAWA MEDIUM
SECURITY FACILITY.

DESIGN	100		
CONSTRUCTION	2,500		
EQUIPMENT	150		
TOTAL FUNDING	2,650	A	
	100	C	

DOC402 - HALAWA CORRECTIONAL FACILITY

2. P00053 HALAWA MEDIUM SECURITY FACILITY-MINOR
IMPROVEMENTS

PLANS, DESIGN AND CONSTRUCTION OF WORK STATIONS,
TRAP DOORS AND INMATE PRIVACY DOORS.

PLANS	36		
DESIGN	72		
CONSTRUCTION	612		
TOTAL FUNDING	720	C	

DOC402 - HALAWA CORRECTIONAL FACILITY

3. CD8702 HIGH SECURITY FACILITY-ADDITIONAL RESIDENCY
UNIT & SUPPORTING FACILITIES

DESIGN, CONSTRUCT AND EQUIP AN ADDITIONAL
RESIDENCY MODULE & SUPPORTING FACILITIES AT THE
HALAWA HIGH SECURITY FACILITY BRANCH.

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		CONSTRUCTION		4,000	
		EQUIPMENT		100	
		TOTAL FUNDING	AGS	3,853 A	A
			AGS	247 C	C

DOC403 - KULANI CORRECTIONAL FACILITY

3A. CD8507 KULANI CORRECTIONAL FACILITY LIGHTING

PLAN, DESIGN, CONSTRUCT AND EQUIP A COMPOUND LIGHTING SYSTEM FOR THE KULANI CORRECTIONAL FACILITY.

DESIGN		25
CONSTRUCTION		130
EQUIPMENT		75
TOTAL FUNDING	AGS	230 C

3B. KULANI CORRECTIONAL FACILITY

CONSTRUCTION OF A CLASSROOM BUILDING.

CONSTRUCTION		122
TOTAL FUNDING	AGS	C

DOC405 - HAWAII COMMUNITY CORRECTIONAL CENTER

3C. CD8506 HAWAII ISC/CCCPGRAM

PLAN, DESIGN, CONSTRUCT AND EQUIP EXPANDED FACILITIES AT HAWAII COMMUNITY CORRECTIONAL CENTER. INCLUDES A JAIL IN WEST HAWAII.

PLANS		165
LAND		50
DESIGN		85
CONSTRUCTION		505
EQUIPMENT		30
TOTAL FUNDING	AGS	835 C

DOC406 - MAUI COMMUNITY CORRECTIONAL CENTER

4. CD8807 MCCC PERMANENT EXPANSION

DESIGN, CONSTRUCT AND EQUIP RENOVATED AND EXPANDED FACILITIES FOR THE MCCC TO PROVIDE CORRECTIONAL PROGRAM SERVICES FOR INMATES AND RESIDENCE FOR THE GROWING POPULATION.

DESIGN		368
TOTAL FUNDING	AGS	192 C

DOC407 - OAHU COMMUNITY CORRECTIONAL CENTER

5. CD8801 OAHU COMMUNITY CORRECTIONAL CENTER-DETENTION AND RELATED SUPPORT FACILITIES

PLAN, DESIGN, CONSTRUCT AND EQUIP RESIDENCY AND RELATED SUPPORT FACILITIES AT THE OAHU COMMUNITY CORRECTIONAL CENTER FOR DETAINED INMATES.

PLANS		100
DESIGN		750

ACT 390**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		CONSTRUCTION		2,115	
		EQUIPMENT		470	
		TOTAL FUNDING	AGS	850 C	4,755 C

DOC409 - WOMEN'S COMMUNITY CORRECTIONAL CENTER

5A. HWCF - EDUCATIONAL/VOCATIONAL PROGRAM BUILDING

DESIGN AND CONSTRUCTION OF AN EDUCATIONAL/VOCATIONAL PROGRAM BUILDING AT THE WOMEN'S FACILITY.

DESIGN		15
CONSTRUCTION		75
TOTAL FUNDING	AGS	90 C

5B. CD8502 HWCF-PLAN, DESIGN, CONSTRUCT, EQUIP NEW FACILITY

PLAN, DESIGN, CONSTRUCT, AND EQUIP A NEW HAWAII WOMEN'S CORRECTIONAL FACILITY WHICH WILL PROVIDE AN ADEQUATE SPACE FOR A COMPREHENSIVE CORRECTIONAL PROGRAM FOR 200 INMATES.

DESIGN		1,483
TOTAL FUNDING	AGS	1,483 C

DOC903 - GENERAL ADMINISTRATION

6. CD8806 KOOLAU CORRECTIONAL COMPLEX

DESIGN, CONSTRUCT AND EQUIP A CORRECTIONAL COMPLEX TO INCLUDE SUPPORT SERVICES FOR ADULT FEMALES AND JUVENILES.

PLANS		90
TOTAL FUNDING	AGS	90 C

LNR810 - PREVENTION OF NATURAL DISASTERS

6A. KAHULUI FLOOD CONTROL PROJECT, MAUI

DESIGN OF THE EAST DRAINAGE SYSTEM, KAHULUI FLOOD CONTROL PROJECT (KANAHA POND).

DESIGN		300
TOTAL FUNDING	LNR	300 C

6B. HAKIPUU FLOOD CONTROL PROJECT ALONG THE MARICULTURAL FACILITY, UOH

DESIGN AND CONSTRUCTION TO ALLEVIATE THE FLOODING AND EROSION ALONG THE LOWER PORTION OF HAKIPUU STREAM AT THE MARICULTURAL FACILITY, UNIVERSITY OF HAWAII.

DESIGN		5
CONSTRUCTION		220
TOTAL FUNDING	LNR	225 C

DEF110 - AMELIORATION OF PHYSICAL DISASTERS

CAPITAL IMPROVEMENT PROJECTS

APPROPRIATIONS
(IN 000'S)

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
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7. A25 WAIIWA ARMY NATIONAL GUARD ARMORY ADDITION

PLANNING AND CONSTRUCTION OF AN ADDITION TO AND UPGRADING OF THE EXISTING WAIIWA ARMORY. ADDITION WILL BE OF PERMANENT MASONRY CONSTRUCTION, INCLUDING ALL UTILITIES, ACCESS ROAD, PARKING AREAS, FENCING, AND OTHER SUPPORTING FEATURES REQUIRED TO COMPLETE THE FACILITY FOR OCCUPANCY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.

DESIGN		380		
CONSTRUCTION				
TOTAL FUNDING	AGS	180	C	2,930
	AGS	200	N	430 C 2,500 N

8. A26 WAIWA ARMY NATIONAL GUARD ARMORY ADDITION

DESIGN AND CONSTRUCTION OF AN ADDITION TO AND UPGRADING OF THE EXISTING WAIWA ARMORY. ADDITION WILL BE OF PERMANENT MASONRY CONSTRUCTION, INCLUDING ALL UTILITIES, ACCESS ROAD, PARKING AREAS, FENCING, AND OTHER SUPPORTING FEATURES REQUIRED TO COMPLETE THE FACILITY FOR OCCUPANCY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.

DESIGN		200		
TOTAL FUNDING	AGS	130	C	
	AGS	70	N	C N

9. A31 ADDITIONAL IMPROVEMENTS TO NATIONAL GUARD ARMORIES

PLANNING AND CONSTRUCTION OF ADDITIONAL IMPROVEMENTS AT ALL NATIONAL GUARD ARMORIES TO UPGRADE FACILITIES TO CONFORM TO CURRENT NATIONAL GUARD BUREAU STANDARDS AND CRITERIA AND TO MEET OTHER UNIT REQUIREMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.

DESIGN		35		
CONSTRUCTION				
TOTAL FUNDING	AGS	185	C	150 185 C

10. A39 ARMY NATIONAL GUARD ARMORY, HANAPEPE, KAUAI

RELOCATION AND RENOVATION OF ORIGINAL ARMORY WITH ADDITION OF A SPECIAL DESIGNED ARMORY FACILITY OF PERMANENT STEEL AND MASONRY TYPE CONSTRUCTION INCLUDING ALL UTILITIES, ACCESS ROAD, PARKING AREAS, SECURITY FENCING, AND OTHER SUPPORTING FEATURES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.

CONSTRUCTION		600		
TOTAL FUNDING	AGS	170	C	
	AGS	430	N	C N

ACT 390**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
11.	A44	ARMY NATIONAL GUARD ARMORY, HONOLULU, HAWAII,			
		PLANNING, DESIGN AND CONSTRUCTION OF AN ARMY NATIONAL GUARD ARMORY FACILITY OF PERMANENT STEEL AND MASONRY-TYPE CONSTRUCTION, AND INCLUDING ALL UTILITIES, ACCESS ROAD, PARKING AREAS, SECURITY FENCING, AND OTHER SUPPORTING FEATURES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING OR REIMBURSEMENT.			
		PLANS			50
		TOTAL FUNDING	AGS	C	50 C
12.	C12	UPGRADE OF DISASTER WARNING AND COM MUNICATION DEVICES STATEWIDE			
		INCREMENTAL UPGRADE OF CIVIL DEFENSE DISASTER WARNING AND COMMUNICATIONS DEVICES STATEWIDE DUE TO INADEQUATE WARNING COVERAGE OF MANY 20+ YR OLD EXISTING DEVICES. THIS IS A CONTINUING PROGRAM FROM YEAR TO YEAR. ALSO THE RENOVATION AND/OR UPGRADE OF DAMAGED DEVICES FROM NATURAL AND/OR MAN-MADE DISASTERS. THIS PROJECT IS NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.			
		PLANS		1	1
		LAND		1	1
		DESIGN		18	18
		CONSTRUCTION		380	230
		EQUIPMENT			150
		TOTAL FUNDING	AGS	210 C	210 C
			AGS	190 N	190 N
13.	C13	ADDITIONAL DISASTER WARNING AND COMMUNI CATIONS DEVICES, STATEWIDE			
		INCREMENTAL INSTALLATION OF ADDITIONAL CIVIL DEFENSE DISASTER WARNING SIRENS, OTHER WARNING DEVICES AND COMMUNICATIONS EQUIPMENT, STATEWIDE, TO EXPAND THE COVERAGE OF WARNING SYSTEM TO KEEP PACE WITH NEW DEVELOPMENTS, GROWTH OF COMMUNITIES & POPULATION SHIFTS. THIS IS A CONTINUING PROGRAM FROM YEAR TO YEAR. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.			
		PLANS		1	1
		LAND		1	1
		DESIGN		38	38
		CONSTRUCTION		460	460
		TOTAL FUNDING	AGS	270 C	270 C
			AGS	230 N	230 N
13A.	A-45	ADDITIONAL IMPROVEMENTS DEPTL ADMIN BLDG & ARMORY, & ENGR OFF PHASE II			
		DESIGN & CONS OF ADDT'L IMPROVEMENTS AT THE DEPT'L ADMINISTRATION BLDG & 100-MAN ARMORY FOR PROVIDING FACILITIES FOR INCREASED STAFF OF THE ADJUTANT GENERAL'S OFFICE & THE HAWAII ARMY NATIONAL GUARD TO INCLUDE ADMINISTRATIVE SPACE,			

CAPITAL IMPROVEMENT PROJECTS

APPROPRIATIONS
(IN 000'S)

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
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LANDSCAPING, RETROFIT OF 306 AIR CONDITIONING SYSTEM AND OTHER IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING OR REIMBURSEMENT.

DESIGN				70
TOTAL FUNDING	AGS		C	70 C

J. INDIVIDUAL RIGHTS

AGR812 - MEASUREMENT STANDARDS

- A-027 MEASUREMENT STANDARDS - DEPT OF AGRICULTURE HEAVY VEHICLE PARKING AREA

PARKING AND STORAGE AREA ALONGSIDE EXISTING MEASUREMENT STANDARDS BLDG. PAVED AREA SIZE IS APPROXIMATELY 35 FEET BY 141 FEET. PAVEMENT MUST BE ABLE TO SUPPORT 50,000 LB GVW TEST WEIGHT TRUCK. DRIVEWAY INTERFACE TO ILALO STREET TO BE INCLUDED. PAVED AREA TO BE COVERED WITH ROOF TO PROTECT VEHICLES AND EQUIPMENT FROM WEATHER. PROVIDE SECURITY FENCING AROUND COMPLEX.

DESIGN			25	
CONSTRUCTION			38	
TOTAL FUNDING	AGS		63 C	C

K. GOVERNMENT-WIDE SUPPORT

GOV100 - OFFICE OF THE GOVERNOR

- G01 PROJECT ADJUSTMENT FUND

TO ESTABLISH A CONTINGENCY FUND FOR PROJECT ADJUSTMENT PURPOSES SUBJECT TO THE PROVISIONS OF THE APPROPRIATIONS ACT (TO BE EXPENDED BY THE OFFICE OF THE GOVERNOR).

DESIGN			3,000	
TOTAL FUNDING	GOV		3,000 C	3,000 C

GOV103 - STATEWIDE PLAN AND COORDINATION

- A. G02 WATERFRONT PROJECT

PLANNING FUNDS FOR PLANS, ENGINEERING STUDIES, FINANCIAL AND ECONOMIC ANALYSIS, PUBLIC INFORMATION AND MARKETING STUDIES AND OTHER STUDIES FOR THE HONOLULU WATERFRONT PROJECT INCLUDING THE OCEAN CENTER.

PLANS			2,500	
TOTAL FUNDING	AGS		C	2,500 C

BED104 - HAWAII COMMUNITY DEVELOPMENT AUTHORITY

2. HCD001 KAKA'AKO COMMUNITY DEVELOPMENT DISTRICT, OAHU

PLANS, LAND, DESIGN AND CONSTRUCTION FUNDS FOR PLANNING AND DEVELOPMENT AND PROJECT COSTS, AS

ACT 390**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
DEFINED IN CHAPTER 206E, HAWAII REVISED STATUTES, FOR THE KAKAAKO COMMUNITY DEVELOPMENT DISTRICT. MAY BE USED TO MATCH FEDERAL & NON-STATE FUNDS, AS MAY BE AVAILABLE.					
		PLANS		100	840
		LAND		20	6,710
		DESIGN		1,590	500
		CONSTRUCTION		1,930	21,230
		TOTAL FUNDING	BED	A	13,540 A
			BED	3,640 C	15,740 C

2A. H73 KAKAAKO WATERFRONT PARK, OAHU

DESIGN AND CONSTRUCTION FOR THE DEVELOPMENT OF
A WATERFRONT PARK & RECREATIONAL FACILITIES ON
THE FORT ARMSTRONG-KEWALO PENINSULA.

DESIGN		100
CONSTRUCTION		900
TOTAL FUNDING	BED	C

ATG100 - LEGAL SERVICES

3. DEPARTMENT OF THE ATTORNEY GENERAL -
PHYSICAL CONSOLIDATION

FUNDS PROVIDED TO DEVELOP PLANS FOR THE
CENTRALIZATION OF THE LEGAL SERVICES PROGRAM IN
ONE FACILITY.

PLANS		50
TOTAL FUNDING	ATG	C

BUF131 - ELECTRONIC DATA PROCESSING SERVICES

4. EDPD1 ELECTRONIC DATA PROCESSING COMPUTER
FACILITY

PLAN, DESIGN, AND CONSTRUCT STATE COMPUTER
FACILITY. THERE IS A NEED FOR A SECOND COMPUTER
SITE TO MEET FEDERAL STANDARDS IN THE OPERATION
OF THE HAWAII AUTOMATED WELFARE INFORMATION
SYSTEM FOR THE DSSH, WITH THE SECOND COMPUTER
SITE. FUNDING WILL BE SPLIT APPROXIMATELY 90%
FEDERAL AND 10% STATE WITH A POTENTIAL SAVINGS OF
ABOUT \$6 MILLION IN STATE FUNDS. OTHERWISE,
FUNDING WILL BE SPLIT 50-50.

PLANS		200
TOTAL FUNDING	AGS	C

LNR101 - PUBLIC LANDS MANAGEMENT

5. E50 KONA MARSHALLING YARD IMPROVEMENT, PHASE II
HAWAII

PLANS, DESIGN AND CONSTRUCTING OF PHASE II
IMPROVEMENTS CONSISTING OF COVERED STRUCTURES,
PAVING OF GRADED AREA, CHAIN LINK FENCING,
RETAINING WALLS, UTILITIES AND OTHER INCIDENTAL
AND APPURTENANT WORK.

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		PLANS		15	
		LAND		15	
		DESIGN		50	
		CONSTRUCTION		410	
		TOTAL FUNDING	LNR	490	C

6. E58 SEAWALL IMPROVEMENT, WAIKIKI

PLANS, DESIGN AND INCREMENTAL CONSTRUCTION OF IMPROVEMENTS TO SEAWALL INCLUDING RAILINGS, REHABILITATION OF SEAWALL, FENCES AND OTHER IMPROVEMENTS NECESSARY FOR THE SAFE PASSAGE OF THE PUBLIC OVER EXISTING SEAWALLS.

PLANS	15	
DESIGN	25	
CONSTRUCTION	150	
TOTAL FUNDING	LNR	190 C

6A. ACQUISITION OF HONOULIULI, EWA, OAHU

ACQUISITION BY NEGOTIATION OR EMINENT DOMAIN OF CAMPBELL ESTATE LANDS SITUATED IN HONOULIULI, EWA, OAHU, GENERALLY IDENTIFIED BY THE VARIOUS PARCELS WITHIN TAX MAP SECTION 9-1, FOR PURPOSES OF PRESERVING AGRICULTURE AND DEVELOPING HOUSING, INFRASTRUCTURE, AND PUBLIC FACILITIES.

LAND	41,000	20,000
TOTAL FUNDING	LNR	41,000 A

AGS221 - CONSTRUCTION

7. A39 KAUNAKAKAI CIVIC CENTER, PHASES 1 & 2

PROVIDE A CIVIC CENTER IN KAUNAKAKAI. WORK TO BE DONE IN 3 PHASES.

LAND	960	
DESIGN	500	
CONSTRUCTION		2,500
TOTAL FUNDING	AGS	1,460 C

8. A48 LIHUE MULTI-AGENCY MAINTENANCE & SERVICE FACILITY, PHASE 1.

PROVIDE OFFICES, MAINTENANCE SHOPS & STORAGE BUILDINGS FOR THE KAUAI DISTRICT TO REPLACE & CONSOLIDATE CURRENT OPERATIONS LOCATED IN SEVERAL INADEQUATE FACILITIES. WORK TO BE DONE IN TWO PHASES.

DESIGN	142	
TOTAL FUNDING	AGS	142 C

8A. A53 MOLOKAI MULTI-AGENCY MAINTENANCE & SERVICE FACILITY

ACQUIRE LAND, PLAN, DESIGN, CONSTRUCT AND EQUIP A MULTI-AGENCY MAINTENANCE & SERVICE FACILITY FOR MOLOKAI STATE AND COUNTY AGENCIES.

PLANS	60	
LAND	250	
DESIGN	115	
TOTAL FUNDING	AGS	425 C

ACT 390**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
9.	A90	LILIHA CIVIC CENTER, PHASE I			
PROVIDE OFFICE BUILDINGS & PARKING STRUCTURE FOR STATE AGENCIES. WORK TO BE DONE IN 4 PHASES.					
	PLANS			150	
	TOTAL FUNDING		AGS	150	C
10.	B27	ADVANCE PLANNING, STATEWIDE			
PROVIDE ASSISTANCE TO THE PUBLIC, STATE AND COUNTIES IN MATTERS RELATING TO PUBLIC WORKS DIVISION. IT INCLUDES THE PREPARATION OF REPORTS, STUDIES, INVENTORIES, REVIEWS AND PERFORMANCE OF ALL NECESSARY ACTIVITIES TO CARRY OUT DAGS FUNCTIONS.					
	PLANS			200	
	TOTAL FUNDING		AGS	200	C
11.	B28	STATE OFFICE BUILDINGS REMODELING			
REMODELING AND UPGRADING STATE OFFICE BUILDINGS, STATEWIDE, TO PROVIDE ADEQUATE SPACE FOR AGENCIES TO ACCOMMODATE THEIR OPERATIONAL REQUIREMENTS. WORK INCLUDES REMODELING FOR REORGANIZATION, PROGRAM CHANGES, STAFFING CHANGES, CORRECTION OF INEFFICIENT OFFICE LAYOUTS, OSHA REGULATIONS, PLUMBING, ELEVATORS, ELECTRICAL SYSTEMS, ETC.					
	DESIGN			60	
	CONSTRUCTION			440	
	TOTAL FUNDING		AGS	500	C
12.	B58	WAILUKU COURT BUILDINGS RENOVATION			
RENOVATING THE EXISTING CIRCUIT AND DISTRICT COURT BUILDINGS INCLUDING MINOR RENOVATIONS TO THE WAILUKU STATE OFFICE BUILDING FOR OFFICE USE BY VARIOUS STATE AGENCIES.					
	CONSTRUCTION			459	
	TOTAL FUNDING		AGS	459	C
13.	B79	HALE AUHAU, RENOVATION AND REMODELING, ADDITIONAL CONSTRUCTION			
PLAN, DESIGN, AND CONSTRUCT BUILDING RENOVATIONS TO MODERNIZE HALE AUHAU. INCLUDES DEMOLITION AND RENOVATION OF A.C., LIGHTING, ELECTRICAL, AND MECHANICAL SYSTEMS; ASBESTOS REMOVAL; MODIFICATION FOR HANDICAPPED ACCESSIBILITY; AND BUILDING ALTERATIONS FOR NEW OCCUPANTS.					
	CONSTRUCTION			357	
	TOTAL FUNDING		AGS	357	C
14.	B80	WASHINGTON PLACE IMPROVEMENTS			
DESIGN AND CONSTRUCTION TO CORRECT CURRENT CODE DEFICIENCIES AND GROUND WATER SEEPAGE. INCLUDES DEMOLITION, MAJOR REWIRING, CONSTRUCTION OF A NEW STAIRWAY, DRAINAGE SYSTEM, UPGRADED ROOFING SYSTEM, AND MISC. STRUCTURAL AND COSMETIC WORK AS NECESSARY.					
	CONSTRUCTION			85	

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		TOTAL FUNDING	AGS	85 C	C
15.	B82	STATE CAPITOL DISTRICT COMMUNICATION DUCTLINES			
		CONSTRUCT COMMUNICATION DUCTLINES BETWEEN KALANIMOKU BUILDING AND OTHER BUILDINGS IN THE STATE CAPITOL DISTRICT.			
		DESIGN		36	
		CONSTRUCTION		363	
		TOTAL FUNDING	AGS	399 C	C
16.	B98	LILIUOKALANI BUILDING ADDITIONS & IMPROVEMENTS PHASE 1			
		PROVIDE ADDITIONAL OFFICE SPACE BY EXPANDING THE EXISTING BUILDING, RENOVATE THE EXISTING OFFICE SPACE, & UPGRADE THE A.C., ACOUSTICAL CEILING, CIRCULATION, LIGHTING, & SOLID WASTE DISPOSAL SYSTEMS. THE WORK IS TO BE DONE IN 4 PHASES.			
		DESIGN		435	
		TOTAL FUNDING	AGS	435 C	C
17.	C66	KILOHANA TRANSMITTER SITE ROAD, KAUAI			
		PROVIDE A PAVED ACCESS ROAD TO THE KILOHANA TRANSMITTER SITE ON KAUAI.			
		DESIGN		10	
		CONSTRUCTION		74	
		TOTAL FUNDING	AGS	84 C	C
17A.	C72	NEW ARCHIVES BUILDING			
		PLAN, DESIGN AND CONSTRUCT A NEW ARCHIVES BUILDING.			
		PLANS			100
		TOTAL FUNDING	AGS		100 C
18.	P00003	LAND ACQUISITION RELATED TO ASBESTOS REMOVAL IN STATE CAPITOL DIST. OFC. BLDG.			
		FUNDS FOR LAND ACQUISITION RELATED TO ASBESTOS MITIGATION IN THE STATE CAPITOL DISTRICT. INCLUDES DESIGN FOR RENOVATION AND CONSTRUCTION.			
		LAND		24,720	
		DESIGN		280	
		TOTAL FUNDING	AGS	25,000 A	A
19.	B84B	KAMAMALU BUILDING ASBESTOS MITIGATION & IMPROVEMENTS, PHASE 2			
		REMOVE ASBESTOS AND RENOVATE THE BUILDING. WORK TO BE DONE IN 5 PHASES. INCLUDES ACCOMMODATIONS FOR THE PRESENT OCCUPANTS.			
		DESIGN		69	
		TOTAL FUNDING	AGS	69 C	C
20.	B84C	KAMAMALU BUILDING ASBESTOS MITIGATION & IMPROVEMENTS, PHASE 3			
		REMOVE ASBESTOS AND RENOVATE THE BUILDING. WORK TO BE DONE IN 5 PHASES. INCLUDES ACCOMMODATIONS FOR THE PRESENT OCCUPANTS.			

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		DESIGN TOTAL FUNDING	AGS	204 204 C	C
21.	B84D KAMAMALU BUILDING ASBESTOS MITIGATION & IMPROVEMENTS, PHASE 4	REMOVE ASBESTOS AND RENOVATE THE BUILDING. WORK TO BE DONE IN 5 PHASES. INCLUDES ACCOMMODATIONS FOR THE PRESENT OCCUPANTS.			
		DESIGN TOTAL FUNDING	AGS	369 369 C	C
22.	C04B LEeward CIVIC CENTER, PHASE 2	PROVIDE A CIVIC CENTER FOR LEWARD OAHU. WORK TO BE DONE IN 4 PHASES.			
		CONSTRUCTION TOTAL FUNDING	AGS	103 103 C	C
23.	C36A RICHARDS ST. PARKING GARAGE, PHASE 1	PROVIDE A MULTI-LEVEL PARKING STRUCTURE AT THE SITE OF THE EXISTING CITY PARKING STRUCTURE ON HOTEL ST. BETWEEN ALAKEA & RICHARDS ST. THE EXISTING STRUCTURE IS TO BE ACQUIRED & DEMOLISHED. THE WORK IS TO BE DONE IN 2 PHASES.			
		LAND TOTAL FUNDING	AGS AGS	5,115 5,095 A 20 C	A C
24.	C36B RICHARDS ST. PARKING GARAGE, PHASE 2	DESIGN FOR DEMOLITION OF EXISTING CITY PARKING GARAGE AND FOR CONSTRUCTION OF MULTI-LEVEL PARKING AND OFFICE STRUCTURE. (INCLUDES PARKING SPACES ELIMINATED DUE TO IOLANI PALACE RESTORATION).			
		DESIGN TOTAL FUNDING	AGS	1,590 1,590 C	C
25.	C38B KINAU HALE BUILDING ASBESTOS MITIGATION & IMPROVEMENTS, PHASE 2	REMOVE ASBESTOS, DEMOLISH A PORTION OF THE BUILDING, ENLARGE THE BUILDING, AND RENOVATE AND UPGRADE THE BUILDING IN 5 PHASES. OFFICE SPACE WILL BE ACQUIRED AND RENOVATED FOR USE BY DOH WHILE WORK ON KINAU HALE IS BEING DONE.			
		DESIGN TOTAL FUNDING	AGS	100 100 C	C
25A.	C10409 STATE CAPITOL DISTRICT ASBESTOS MITIGATION, A.C. AND OTHER IMPROVEMENTS	REMOVE, ENCAPSULATE AND/OR ENCASE ASBESTOS-CONTAINING MATERIAL IN THE STATE CAPITOL. RENOVATE THE BUILDING AIR CONDITIONING SYSTEM AND REFURBISH THE OFFICES AND PUBLIC AREAS.			
		DESIGN TOTAL FUNDING	AGS	1,200 1,200 C	C
26.	P00005 HILO CIVIC CENTER.				

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
IMPROVEMENTS. (FUNDS MAY BE DELEGATED TO THE COUNTY OF HAWAII).					
		PLANS		50	
		TOTAL FUNDING	AGS	50	C
27.	P00006	LIHUE SHOPPING CENTER, KAUAI			
ACQUISITION OF LIHUE SHOPPING CENTER FOR KAUAI COUNTY BUILDING.					
		CONSTRUCTION		5,000	
		TOTAL FUNDING	AGS	5,000	A
28.	P00007	MAUI DISTRICT OFFICE - RELOCATION TO KAHULUI AIRPORT AREA			
DESIGN AND CONSTRUCTION TO RELOCATE MAUI DISTRICT OFFICE.					
		DESIGN		10	
		CONSTRUCTION		90	
		TOTAL FUNDING	AGS	100	C
28A.	S00011	ASBESTOS REMOVAL IN PUBLIC BUILDINGS			
REMOVE, ENCAPSULATE AND/OR ENCASE ASBESTOS IN PUBLIC BUILDINGS.					
		DESIGN		150	
		CONSTRUCTION		2,350	
		TOTAL FUNDING	AGS	2,500	C
28B.		CULTURAL CENTER, PEARL CITY, OAHU			
PLANS AND DESIGN FOR A CULTURAL CENTER TO INCLUDE AN AUDITORIUM TO BE LOCATED IN THE PEARL CITY AREA.					
		PLANS		150	
		DESIGN		500	
		TOTAL FUNDING	AGS	650	C
ATG801 - CAPITOL BUILDING SECURITY					
29.		GARAGE SECURITY GATE-STATE CAPITOL			
DESIGN AND CONSTRUCT SECURITY GATE FOR THE PUNCHBOWL EXIT/ENTRANCE OF THE STATE CAPITOL BASEMENT GARAGE.					
		DESIGN		3	
		CONSTRUCTION		30	
		TOTAL FUNDING	AGS	33	C
30.		CAPITOL BASEMENT SECURITY, OAHU			
DESIGN AND CONSTRUCT SECURITY OFFICE WINDOW FOR SURVEILLANCE AND OBSERVATION OF MAUKA ENTRANCE.					
		DESIGN		5	
		CONSTRUCTION		45	
		TOTAL FUNDING	AGS	50	C
SUB201 - CITY AND COUNTY OF HONOLULU					
31.		MOANALUA ROAD, OAHU			

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		DESIGN AND CONSTRUCTION TO COMPLETE IMPROVEMENT.			
		DESIGN		85	
		CONSTRUCTION		765	
		TOTAL FUNDING	CCH	850 C	C
SUB301 - COUNTY OF HAWAII					
31A.		HILO WASTE WATER SEWER TREATMENT PLANT, HAWAII			
		CONSTRUCTION FOR THE HILO WASTE WATER SEWER TREATMENT PLANT.			
		CONSTRUCTION			3,000
		TOTAL FUNDING	COH		3,000 C
31B.		WATER - KEAAU/PAHOA, EXTENDED TRANSMISSION LINE			
		CONSTRUCTION OF AN EXTENDED WATER TRANSMISSION LINE.			
		CONSTRUCTION			500
		TOTAL FUNDING	COH		500 C
31C.		PAPAIKOU GYM, HAWAII			
		PLANS, DESIGN AND CONSTRUCTION OF A GYM AT PAPAIKOU, HAWAII.			
		PLANS			50
		DESIGN			50
		CONSTRUCTION			400
		TOTAL FUNDING	COH		500 C
31D.		NORTH KONA SEWAGE SYSTEM/SOLID WASTE SYSTEM, HAWAII			
		DESIGN AND CONSTRUCTION FOR THE NORTH KONA SEWAGE SYSTEM/SOLID WASTE SYSTEM INCLUDING KEALAKEHE IN THE COUNTY OF HAWAII. FUNDS TO BE MATCHED BY COUNTY, FEDERAL/COUNTY, AND/OR COUNTY/PRIVATE FUNDS.			
		DESIGN			200
		CONSTRUCTION			1,800
		TOTAL FUNDING	COH		2,000 C
SUB401 - COUNTY OF MAUI					
32.		KAHOMA STREAM FLOOD CONTROL PROJECT, MAUI			
		LAND, DESIGN AND CONSTRUCTION FOR FLOOD CONTROL IMPROVEMENTS, INCLUDING BRIDGE (TO BE EXPENDED BY THE COUNTY OF MAUI).			
		LAND		1	
		DESIGN		49	
		CONSTRUCTION		400	
		TOTAL FUNDING	COM	450 C	C
33.		KAUPO ROAD RECONSTRUCTION, MAUI			
		PLANS, DESIGN AND CONSTRUCTION FOR REPAIR AND RECONSTRUCTION OF THE PUBLIC HIGHWAY AT KAUPO, MAUI, HAWAII.			

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		PLANS		10	
		DESIGN		50	
		CONSTRUCTION		540	
		TOTAL FUNDING	COM	600	A
34.		HONOKAWAI BRIDGE FLOOD CONTROL PROJECT, MAUI			
		DESIGN AND CONSTRUCTION FOR FLOOD CONTROL IMPROVEMENTS.			
		DESIGN		10	
		CONSTRUCTION		90	
		TOTAL FUNDING	COM	100	C
		SUB501 - COUNTY OF KAUAI			
35.		KAUAI ECONOMIC OPPORTUNITY FACILITY, KAUAI			
		DESIGN AND CONSTRUCTION OF GROUP HOME FOR PHYSICALLY DISABLED.			
		DESIGN		20	
		CONSTRUCTION		160	
		TOTAL FUNDING	COK	180	A
36.		KAUAI SEWAGE SYSTEM PROJECTS			
		DESIGN AND CONSTRUCTION FOR VARIOUS SEWAGE SYSTEM PROJECTS FOR THE COUNTY OF KAUAI.			
		DESIGN		55	
		CONSTRUCTION		800	
		TOTAL FUNDING	COK	855	C
37.		KAUAI DRAINAGE IMPROVEMENT PROJECTS			
		DESIGN AND CONSTRUCTION FOR VARIOUS DRAINAGE IMPROVEMENT PROJECTS FOR THE COUNTY OF KAUAI.			
		DESIGN		25	
		CONSTRUCTION		350	
		TOTAL FUNDING	COK	375	C
38.		SOLID WASTE MANGEMENT PROGRAM, KAUAI			
		DESIGN AND CONSTRUCTION FOR THE SOLID WASTE MANAGEMENT PROGRAM FOR THE COUNTY OF KAUAI.			
		DESIGN		55	
		CONSTRUCTION		900	
		TOTAL FUNDING	COK	955	C
39.		KAUAI PARKS AND RECREATION PROJECTS			
		DESIGN AND CONSTRUCTION FOR VARIOUS PARKS AND RECREATION PROJECTS FOR THE COUNTY OF KAUAI. RECREATION PROJECTS SHALL INCLUDE THE PLANS AND DESIGN FOR FIFTY-METER SWIMMING POOL COMPLEX.			
		PLANS		50	
		DESIGN		137	
		CONSTRUCTION		600	
		TOTAL FUNDING	COK	787	C

(2) By adding a new section to read as follows:

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"SECTION 281A. Provided that occupancy in the Manoa Innovation Center shall be limited to entrepreneurs, support agencies that provide administrative, managerial, research, development, or other services, and other operations which contribute to the efficiency, effectiveness, and viability of the center will attest in an annual report to the legislature."

(3) By adding a new section to read as follows:

"SECTION 281B. Provided that of the revenue bond fund appropriation for Lihue airport (TRN 161), the sum of \$700,000 in fiscal year 1988-89 and of the special fund appropriation for airport planning statewide (TRN 195), the sum of \$500,000 or any portion thereof in fiscal year 1988-89 shall not be expended for the Lihue airport runway expansion until the legislature and the department of transportation have received a written commitment from the major overseas airline carriers operating in the State to operate out of Lihue airport; provided further that the above-mentioned appropriations shall not be expended until the department of transportation shall have held at least four public hearings on the runway expansion pursuant to chapter 91, Hawaii Revised Statutes, to give proper notice to and to receive public comments from persons who would be affected by the runway expansion."

(4) By adding a new section to read as follows:

"SECTION 281C. Provided that of the revenue fund and other federal fund appropriations for airport improvements, statewide (TRN 195), there shall be no moneys expended for helicopter facilities at Port Allen airport."

(5) By adding a new section to read as follows:

"SECTION 281D. Provided that of the revenue bond fund appropriation for Kawaihae harbor improvements (TRN 313), the sum of \$100,000 in fiscal year 1988-89 shall be expended for the relocation of small boats and dredging to effectuate this purpose in or adjacent to the Kawaihae harbor."

(6) By adding a new section to read as follows:

"SECTION 281E. Provided that of the capital improvement projects for Oahu highways and services (TRN 501), that in all plans for Kalanianaole highway improvements, the vehicular entrance and exit to Ainakoa avenue to and from the highway, shall be preserved.

(7) By adding a new section to read as follows:

"SECTION 281F. Provided that of the general obligation reimbursable bond and other federal fund appropriations for Kuhio highway (TRN 561), the department of transportation shall include in the design an extension of the Ahukini by-pass to end near the Wailua golf course; provided further that a study shall be conducted for an alternative bridge to Wailua river to accommodate increased traffic; provided further that the passing lanes shall be reserved for car-pooling and other mass transit vehicles; and provided further that the passing lanes shall be designed for reversibility."

(8) By adding a new section to read as follows:

"SECTION 281G. Provided that of the general obligation reimbursable bond and other federal fund appropriations for Kuhio highway (TRN 561), if the long-

range master plan for Kauai highways recommends that a different project is given a higher priority, the department of transportation shall expend the funds for the higher priority project.”

(9) By adding a new section to read as follows:

“SECTION 284A. Provided that the capital investment projects for public school facilities authorized by this Act and for future capital investment requirements of the department of education, the governor shall authorize the development of a supplemental financing plan to promote and facilitate private contributions for specific public school facilities or for a building endowment fund for the public school system; provided further that to develop the plan, the governor shall establish a temporary blue-ribbon commission of community and business leaders, with the assistant superintendent for business services of the department of education serving as an ex-officio member; provided further the temporary commission shall submit a report of its plan to the governor and the legislature twenty days prior to the convening of the 1989 regular session.”

(10) By adding a new section to read as follows:

“SECTION 286A. Provided that of the general obligation bond fund appropriation for instruction-UOH, Manoa (UOH 101), the sum of \$503,000 for fiscal year 1988-89 shall be used for the design of physical education facilities or a multipurpose athletic facility, to include a new gymnasium as a replacement for Klum Gym.”

(11) By amending Section 288 to read:

“SECTION 288. Provided that of the capital improvement appropriations for the University of Hawaii, the sum of \$731,000 in general obligation bond funds in fiscal year 1987-88 and \$495,000 in general obligation bond funds in fiscal year 1988-89 shall be for expenditure in the following institutional support programs for the replacement of transformers with PCB:

<u>Program ID</u>	<u>FY 1987-88</u>	<u>FY 1988-89</u>
UOH 106	\$495,000	\$495,000
UOH 906	236,000

Provided that except in cases of unforeseen circumstances or justifiable cost overruns, these funds shall be used to replace transformers with PCB on the Manoa and community college campuses; provided further that the University of Hawaii shall provide annual reports to the legislature on the expenditure of the funds for these projects twenty days prior to the convening of the 1988 and 1989 regular sessions.”

(12) By adding a new section to read as follows:

“SECTION 290A. Provided that of the general obligation bond appropriation for Oahu community correctional center (DOC 407) new detention facility, the sum of \$1,250,000 in fiscal year 1988-89 for the program building if constructed off-site to accommodate inmates in interim housing which is also located away from the existing OCCC site, the program building so constructed shall be temporary, and not permanent, in nature and design.”

(13) By adding a new section to read as follows:

“SECTION 292A. Provided that of the general fund appropriation for construction (AGS 221), the sum of \$2,500,000 in fiscal year 1988-89 shall be used

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for the removal of asbestos from state facilities; provided further that the governor may transfer any funds appropriated to any other state agency for asbestos removal to the department of accounting and general services for the purpose of centralizing asbestos removal activities.”

(14) By renumbering the first Section 293 to read:

“SECTION 292. Provided that of the general obligation bonds appropriated for capital building security (ATG 801), the sum of \$33,000 for fiscal year 1987-88 shall be allocated for the design and construction of a security gate in the State Capitol parking garage basement (Punchbowl Street entrance/exit).”

(15) By adding a new Section to read as follows:

“SECTION 292A. Provided that of the general obligation bond fund appropriations for grants-in-aid to the county of Kauai (SUB 501) for parks and recreation projects, the sum of \$150,000 for fiscal year 1988-89 shall be expended for plans and design of a fifty-meter swimming pool complex.”

(16) By adding a new section to read as follows:

“SECTION 293A. Any law to the contrary notwithstanding, the appropriations under Act 300, Session Laws of Hawaii 1985, Section 136, as amended and renumbered by Act 345, Session Laws of Hawaii 1986, Section 6, in the amounts indicated or balance thereof, are hereby lapsed:

<u>Item No.</u>	<u>Amount (MOF)</u>
EDN 105-13	\$ 60,000 C
UOH 106-77	10,000 C
UOH 106-79	11,000 C
UOH 106-83	13,000 C
UOH 106-84	10,000 C
UOH 106-88	29,000 C
UOH 106-95	235,000 C
UOH 106-112	28,000 C
UOH 106-115	120,000 C
AGS 221-18	117,000 C
TRN 595-62	300,000 D
TRN 801-65A	60,000 D
TRN 903-11B	30,000 C
LNR 806-44	110,000 C
LNR 806-15	50,000 C
LNR 153-9	228,000 C
LNR 801-9	100,000 C
SOC 220-6	100,000 C
AGS 221-19	70,000 C
AGS 889-68	2,022,000 C
PED 107-5	500,000 D
PED 102-1	11,390,000 C
PED 102-1	3,000,000 A
PED 102-1B	2,720,000 C
PED 120-11	49,400 C
LNR 806-23	165,000 C
LNR 806-42	200,000 C

LNR	806-53	100,000 C
LNR	806-51	210,000 C
LNR	806-36	65,000 C
LNR	806-47	90,000 C
LNR	806-18	10,000 C
LNR	801-4	180,000 C
LNR	801-5	33,000 C
LNR	801-8	140,000 C
UOH	101-58	3,201,000 C
UOH	101-61	249,000 C
UOH	211-118	1,000,000 C
CCA	701-12	425,000 C
LNR	141-15	150,000 C
LNR	141-16	573,000 C
LNR	402-8	125,000 C
TRN	801-64	92,544 C
TRN	801-59	21,492 D
TRN	801-59	91,000 D
TRN	801-63	4,744 D
TRN	801-54	180,000 D
TRN	801-58	150,000 D
TRN	801-61A	125,000 D
TRN	501-41	500,000 D
TRN	903-11	104,000 C
EDN	105-7	225,000 C
EDN	105-8	35,000 C
EDN	105-10	1,479 C
EDN	105-19	14,200 C
EDN	105-20	64,700 C
EDN	105-21	7,000 C
EDN	105-23	1,400 C
EDN	105-29	1,000 C
EDN	105-31	10,000 C
EDN	105-36	9,860 C
EDN	105-39	339,000 C
EDN	105-40	10,000 C
EDN	105-41	21,590 C
EDN	105-42	15,000 C
EDN	105-43	25,000 C
EDN	203-44	5,980 C
EDN	305-47	52,500 C
EDN	105-14	1,000 C
EDN	105-24	20,000 C
EDN	105-43A	24,000 C
HHL	602-1	10,000 C
HHL	602-1B	7,000 C
UOH	106-89	115,000 C
UOH	106-92	50,000 C
UOH	106-93	27,000 C
UOH	903-130	128,000 C
UOH	903-131	226,000 C
UOH	903-132	92,000 C

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AGR 192-7 56,000 C"

(17) By adding a new section to read as follows:

"SECTION 295A. Any law to the contrary notwithstanding, the appropriations under Act 347, Session Laws of Hawaii 1986, in the amounts indicated or balance thereof, are hereby lapsed:

<u>Item No.</u>	<u>Amount (MOF)</u>
TRN 114-1	50,000 C
TRN 501-14	5,000 C
TRN 531-21	100,000 C
TRN 531-25	50,000 C
TRN 531-26	200,000 C
TRN 561-28	15,000 C
HTH 231-3	82,000 C
HTH 231-4	15,000 C
SUB 601-7	10,000 C
SOC 401-1	10,000 C
SOC 401-2	4,000 C
SOC 401-3	1,000 C
SOC 401-4	1,000 C
SOC 401-5	40,000 C
SOC 409-6	20,000 C
EDN 105-1	59,000 C
EDN 105-2	3,000 C
EDN 105-3	4,000 C
EDN 105-4	3,000 C
EDN 105-6	40,000 C
EDN 105-7	15,000 C
EDN 105-8	15,000 C
EDN 105-9	203,000 C
EDN 105-11	71,000 C
EDN 105-12	14,000 C
EDN 105-13	40,000 C
EDN 105-14	15,000 C
EDN 105-15	135,000 C
EDN 105-16	4,000 C
EDN 105-17	8,000 C
EDN 105-18	16,000 C
EDN 105-19	20,000 C
EDN 105-20	7,000 C
EDN 105-21	78,000 C
EDN 105-22	26,000 C
EDN 105-23	3,000 C
EDN 105-24	25,000 C
EDN 105-25	100,000 C
EDN 105-26	14,000 C
EDN 105-27	14,000 C
EDN 105-28	50,000 C
EDN 105-29	112,000 C
EDN 105-31	17,000 C
EDN 105-32	19,000 C
EDN 105-33	4,000 C

EDN	105-34	75,000 C
EDN	105-36	20,000 C
EDN	105-37	90,000 C
EDN	105-38	75,000 C
EDN	105-39	30,000 C
EDN	105-41	75,000 C
EDN	105-42	33,000 C
EDN	105-43	25,000 C
EDN	105-44	80,000 C
EDN	105-46	28,000 C
EDN	105-47	28,000 C
EDN	105-49	165,000 C
EDN	105-54	4,000 C
EDN	105-56	23,000 C
EDN	105-57	15,000 C
EDN	105-58	23,000 C
EDN	105-59	10,000 C
EDN	105-60	5,000 C
EDN	105-61	10,000 C
EDN	105-62	10,000 C
EDN	105-63	115,000 C
EDN	105-64	50,000 C
EDN	105-65	50,000 C
EDN	105-66	50,000 C
EDN	105-67	10,000 C
EDN	105-68	19,000 C
EDN	105-69	2,000 C
EDN	105-70	7,000 C
EDN	105-71	9,000 C
EDN	105-72	36,000 C
EDN	105-73	11,000 C
EDN	105-74	22,000 C
EDN	105-75	15,000 C
EDN	105-77	15,000 C
EDN	105-78	29,000 C
EDN	105-80	10,000 C
EDN	105-81	27,000 C
EDN	105-82	8,000 C
EDN	105-83	100,000 C
EDN	105-85	50,000 C
EDN	105-86	100,000 C
EDN	105-87	125,000 C
EDN	105-88	250,000 C
EDN	105-89	70,000 C
EDN	105-90	30,000 C
EDN	105-91	75,000 C
EDN	105-92	250,000 C
EDN	105-93	19,000 C
EDN	105-94	5,000 C
EDN	105-95	6,000 C
EDN	105-96	3,000 C
EDN	105-97	3,000 C
EDN	105-98	21,000 C
EDN	105-100	28,000 C

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EDN	105-101	150,000 C
EDN	105-102	90,000 C
EDN	105-105	50,000 C
EDN	105-107	5,000 C
EDN	105-108	50,000 C
EDN	105-109	50,000 C
EDN	105-110	35,000 C
EDN	105-111	45,000 C
EDN	105-112	147,000 C
EDN	105-113	80,000 C
EDN	105-114	21,000 C
EDN	105-115	95,000 C
EDN	105-116	25,000 C
EDN	105-117	35,000 C
EDN	105-118	50,000 C
EDN	105-120	150,000 C
EDN	105-121	75,000 C
EDN	105-122	50,000 C
EDN	105-125	1,000 C
EDN	105-126	65,000 C
EDN	105-127	42,000 C
EDN	105-128	4,000 C
EDN	105-129	25,000 C
EDN	105-131	50,000 C
EDN	105-132	300,000 C
EDN	105-133	35,000 C
EDN	105-134	25,000 C
EDN	105-135	15,000 C
EDN	105-136	15,000 C
EDN	105-137	25,000 C
EDN	105-138	70,000 C
EDN	105-139	22,000 C
EDN	105-140	23,000 C
EDN	105-141	2,000 C
EDN	105-142	2,000 C
EDN	105-143	14,000 C
EDN	105-144	12,000 C
EDN	105-145	176,000 C
EDN	105-146	176,000 C
EDN	105-147	100,000 C
EDN	105-148	29,000 C
EDN	105-149	75,000 C
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EDN	105-151	23,000 C
EDN	105-153	26,000 C
EDN	105-154	23,000 C
EDN	105-156	25,000 C
EDN	105-157	25,000 C
EDN	105-158	6,000 C
EDN	105-159	20,000 C
EDN	105-160	63,000 C
EDN	105-162	20,000 C
EDN	105-163	21,000 C
EDN	105-164	25,000 C

EDN	105-165	5,000 C
EDN	105-166	8,000 C
EDN	105-167	10,000 C
EDN	105-168	4,000 C
EDN	105-169	3,000 C
EDN	105-170	10,000 C
EDN	105-171	17,000 C
EDN	105-172	48,000 C
EDN	105-176	25,000 C
EDN	105-178	8,000 C
EDN	105-179	12,000 C
EDN	105-180	20,000 C
EDN	105-181	6,000 C
EDN	105-183	6,000 C
EDN	105-187	34,000 C
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EDN	105-191	23,000 C
EDN	105-192	81,000 C
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EDN	105-201	20,000 C
EDN	105-202	23,000 C
EDN	105-203	20,000 C
EDN	105-204	80,000 C
EDN	105-205	13,000 C
EDN	105-206	356,000 C
EDN	105-207	216,000 C
EDN	105-212	14,000 C
EDN	105-213	20,000 C
EDN	105-215	57,000 C
EDN	105-216	20,000 C
EDN	105-217	15,000 C
EDN	105-218	10,000 C
EDN	105-220	35,000 C
EDN	105-221	13,000 C
EDN	105-223	20,000 C
EDN	105-226	25,000 C
EDN	105-227	8,000 C
EDN	105-228	5,000 C
EDN	105-229	11,000 C
EDN	105-230	10,000 C
EDN	105-231	50,000 C
EDN	105-232	75,000 C
EDN	105-233	42,000 C
EDN	105-234	8,000 C
EDN	105-235	15,000 C
EDN	203-236	46,000 C

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EDN	203-238	20,000 C
EDN	203-239	20,000 C
EDN	203-240	52,000 C
EDN	203-241	12,000 C
EDN	203-242	7,000 C
EDN	305-243	27,000 C
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EDN	305-245	65,000 C
EDN	305-246	15,000 C
EDN	305-247	2,000 C
EDN	305-248	65,000 C
EDN	305-249	70,000 C
EDN	305-250	15,000 C
EDN	305-251	79,000 C
EDN	305-252	25,000 C
EDN	305-253	20,000 C
EDN	305-255	6,000 C
EDN	305-256	2,000 C
EDN	305-257	3,000 C
EDN	305-258	38,000 C
EDN	407-259	20,000 C
EDN	407-260	20,000 C
EDN	407-262	10,000 C
EDN	407-263	2,000 C
EDN	407-264	2,000 C
EDN	407-265	35,000 C
EDN	105-51	68,000 C
EDN	105-52	2,000 C
EDN	105-53	900 C
EDN	105-152	10,000 C
EDN	105-173	25,000 C
EDN	105-211	17,000 C
EDN	105-219	5,000 C
EDN	105-224	22,000 C
EDN	305-254	21,000 C
DEF	110-8	15,000 C
DEF	110-11	19,000 C
TRN	801-15	50,000 C
TRN	801-16	35,000 C
TRN	801-17	120,000 C"

(18) By adding a new section to read as follows:

“SECTION 295B. Any law to the contrary notwithstanding, the unencumbered balance of the following appropriations under Act 217, Session Laws of Hawaii 1987, in the amounts indicated are lapsed.:.

<u>Item No.</u>	<u>Amount (MOF)</u>
LTG 100-1	\$4,000 C”

(19) By amending Section 331 to read:

“SECTION 331. Provided that revenue bonds may be issued by the housing finance and development corporation pursuant to Part II, Chapter 201E, Hawaii

Revised Statutes, and Part III, Chapter 39, Hawaii Revised Statutes, in an aggregate principal amount not to exceed \$75,000,000 at such times and in such amounts as it deems advisable for the purpose of financing and refinancing any rental housing projects developed or acquired by the housing finance and development corporation under Chapter 201E, Hawaii Revised Statutes, or by the Hawaii housing authority under Chapters 356 and 359G, Hawaii Revised Statutes.”

SECTION 7. Section 136 of Act 300, Session Laws of Hawaii 1985, as amended and renumbered by Act 345, Session Laws of Hawaii 1986, Section 6, is amended:

(1) By amending Item LNR 141-18 to read:

“18. G86 Waimea Irrigation System, Upper Hamakua Ditch, Hawaii Design and construction for incremental development. This project is deemed necessary to qualify for federal aid financing or reimbursement.

	FY 1985-86	FY 1986-87
Plans	20	
Design	60	40
Construction	570	460
Total Funding	LNR 650 C	500 C”

(2) By amending item LNR 141-15 to read:

“15. G45 Water Resources Development for Agriculture Statewide Planning acquisition design and construction of water facilities for agriculture, including water development for aquaculture and rehabilitation of ditch systems. One million dollars of construction funds for this project is deemed necessary to qualify for federal aid financing or reimbursement.

	FY 1985-86	FY 1986-87
Plans	20	
Land	30	
Design	50	
Construction	2,715	
Total Funding	LNR 2,815 C	C”

(3) By amending Item LNR 141-18D to read:

“18D. Maui Water Development

Engineering and economic studies, geologic and hydrologic investigation, exploration and development for the conservation and utilization of surface and ground water resources including the improvement of water quality and preservation of water for instream uses. This project is deemed necessary to qualify for federal aid financing or reimbursement.

	FY 1985-86	FY 1986-87
Plans	100	
Land	100	
Design	100	
Construction	2,200	
Total Funding	LNR C	2,500 C”

SECTION 8. Part V, Act 216, Session Laws of Hawaii 1987, Section 296 is amended to read as follows:

“SECTION 296. GOVERNOR’S DISCRETIONARY POWERS. When it is deemed in the public interest of the State, the governor, in his discretion, is authorized to use the state general fund to finance capital improvement projects authorized for this fiscal biennium in this or any other Act, where the method of

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financing is designated to be the general obligation bond fund. Any law or provision to the contrary notwithstanding, the governor may replace general obligation bond funds appropriated for capital improvement projects with general obligation reimbursable bond funds, when the expenditure of such general obligation reimbursable bond funds is deemed appropriate for the project."

SECTION 9. Part VI, Act 216, Session Laws of Hawaii 1987 is amended:

(1) By adding a new section to read as follows:

"**SECTION 309A.** In the event that essential, federally-funded state programs are significantly diminished or curtailed by unanticipated federal funding cutbacks, the governor may utilize savings as determined to be available from other state programs for the purpose of maintaining such programs until the next legislative session."

(2) By adding a new section to read as follows:

"**SECTION 312A.** Provided that, of the respective appropriation for each principal state department as defined by Section 26-4, Hawaii Revised Statutes, the sum of \$10,000 in fiscal year 1988-89 shall be made available in each department to be established as a separate account for a protocol fund to be expended at the discretion of the executive heads of such departments which are respectively known as its directors, chairmen, chairpersons, comptroller, adjutant-general, and attorney-general; and provided further that the provisions of this section shall exclude executive heads covered by Sections 153 and 202 of this Act."

(3) By adding a new section to read as follows:

"**SECTION 331A.** Provided that the legislative auditor shall conduct a study of grants-in-aid and purchase of service contracts authorized by chapter 42, Hawaii Revised Statutes (HRS). This study shall include, but not be limited to:

1. An evaluation of chapter 42, HRS, to determine if it provides adequate guidelines for the effective and efficient administration of all activities covered under that chapter;
2. An evaluation of the administrative rules on grants-in-aid and purchase of service contracts as administered by the department of budget and finance;
3. An evaluation of the application process for new or expanding services;
4. An evaluation of the request for proposal (RFP) process;
5. An evaluation of the review process currently in place, with special emphasis placed on the methods used to evaluate the providers' effectiveness and efficiency in providing the service for which they were contracted; and
6. An analysis and evaluation of selected grants-in-aid and purchase of service contracts. This shall include, but not be limited to:
 - a. A determination of any duplication of efforts; and
 - b. A determination of the cost effectiveness of a particular provider compared to other public or private providers of similar services.

Provided further that the legislative auditor shall submit a report of findings and recommendations to the legislature twenty days prior to the 1989 regular session."

SECTION 10. If any portion of this act or its application to any person or circumstances is held to be invalid for any reason, then the legislature declares that

the remainder of the Act and each and every provision thereof shall not be affected thereby. If any portion of a specific appropriation is held invalid for any reason, the remaining portion shall be expended to fulfill the objective of such appropriation to the extent possible.

SECTION 11. In the event manifest clerical, typographical, or other mechanical errors are found in the Act, the governor is hereby authorized to correct such errors. All changes made pursuant to this section shall be reported to the legislature at its next session.

SECTION 12. Statutory material to be repealed is bracketed. New material is underscored. Notwithstanding section 23G-16.5, Hawaii Revised Statutes, in printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring. Nothing in this Act shall affect the validity or continuing effectiveness of any provisions of Act 216, session laws of Hawaii 1987, not repealed or modified by this Act.

SECTION 13. This Act shall take effect upon its approval.

(Approved June 15, 1988.)

ACT 391

S.B. NO. 2209

A Bill for an Act Authorizing the Issuance of General Obligation Bonds and Making an Appropriation for the Waikiki Aquarium.

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

SECTION 1. The Waikiki Aquarium opened in 1955. Since then, there have been only a few cosmetic changes and some modernization of the facility. The Waikiki Aquarium is in need of technological upgrading and general maintenance to make it comparable to other aquariums in the United States, Canada, and Japan. The Waikiki Aquarium, a popular visitor and resident attraction, is in danger of losing its reputation and may soon start to suffer a drop in attendance and revenue. A master plan to revitalize the Waikiki Aquarium will enable the facility to fulfill its great potential and meet its responsibility to educate Hawaii's residents to understand surrounding ocean waters and natural sea life.

SECTION 2. The director of finance is authorized to issue general obligation bonds in the sum of \$3,000,000, or so much thereof as may be necessary, and the same sum, or so much thereof as may be necessary, is appropriated for fiscal year 1988-1989 for upgrading the Waikiki Aquarium by funding phase 1-A of the master plan for the revitalization of the Waikiki Aquarium, released in November 1987, to include the design of all of Phase I of the master plan, and improvements to the electrical service system, sea intake and distribution systems, mechanical treatment system, off-exhibit animal holding and service areas, display aquaria, fish holding and research area, public restrooms, ticket booth, entrance area, monk seal pool, and the removal of the concrete steps fronting the exhibit areas. The sum of \$625,000 of the \$3,000,000 shall be used for the design of all of Phase I of the Master Plan.

SECTION 3. The sum appropriated shall be expended by the University of Hawaii for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 1988.

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(Approved June 15, 1988.)

ACT 392

H.B. NO. 501

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 per cent 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 per cent 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."
- (2) Actual and estimated debt limits. The limit on principal and interest of general obligation bonds issued by the State, actual for fiscal year 1987-1988 and estimated for each fiscal year from 1988-1989 to 1990-1991, is as follows:

Fiscal Year	Net General Fund Revenues	Debt Limit
1984-85	1,439,541,519	
1985-86	1,569,777,922	
1986-87	1,759,104,963	
1987-88	2,000,069,000	294,052,838
1988-89	1,997,766,000	328,618,700
1989-90	2,123,561,000	355,011,298
1990-91 (Not Applicable)		377,486,087

For fiscal years 1987-88, 1988-89, 1989-90, and 1990-91, 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 1984-85, 1985-86, and 1986-87 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, 1987, dated November 23, 1987. The net general fund revenues for fiscal years 1987-88 to 1989-90 are estimates, based on general fund revenue estimates made as of March 10, 1988 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. According to the department of budget and finance, the total amount of principal and interest on outstanding general obligation bonds for determining the power of the State to issue general obligation bonds within the debt limit, as of March 1, 1988, is as follows for fiscal year 1988-89 to fiscal year 1994-95:

Fiscal Year	Principal and Interest
1988-89	219,583,786
1989-90	216,277,877
1990-91	210,107,366
1991-92	199,866,218
1992-93	187,438,485
1993-94	171,379,493
1994-95	158,689,576

The department of budget and finance further reports that the amount of principal and interest on outstanding bonds applicable to the debt limit, as of March 1, 1988, continues to decline each year from fiscal year 1995-96 to fiscal year 2011-12 when the final installment of \$15,347 shall be due and payable.

- (4) Amount of authorized and unissued general obligation bonds and bonds authorized by this Act. As calculated from the state comptroller's bond fund report as of February 29, 1988, adjusted for appropriations to be funded by general obligation bonds and reimbursable general obligation bonds as provided in Act 216, Session Laws of Hawaii 1987 (General Appropriations Act of 1987) to be expended in the fiscal year 1988-89, and further adjusted for changes in means of financing from general obligation bond fund to general fund amounting to \$122,783,000 and the lapsing of prior appropriations amounting to \$47,451,789 as provided in H.B. No. 2081, H.D. 1, S.D. 1, C.D. 1 (the Supplemental Appropriations Act of 1988)¹, the total amount of authorized but unissued general obligation bonds is \$434,901,443. The total amount of general obligation bonds authorized by this Act is \$202,900,000. The total amount of general obligation bonds previously authorized and unissued and the general obligation bonds authorized by this Act is \$637,801,443.
- (5) Proposed general obligation bond issuance. As reported by the department of budget and finance for fiscal years 1987-88, 1988-89, 1989-90, and 1990-91, the State proposes to issue \$80,000,000 during the remainder of fiscal year 1987-88; \$80,000,000 during the first half of fiscal year 1988-89; one series of \$80,000,000 and one series of \$90,000,000 during the second half of fiscal year 1988-89; and \$80,000,000 semiannually in each of fiscal years 1989-90 and 1990-91. It has been the practice of the State to issue twenty-year serial bonds with principal repayments beginning the third year, the bonds maturing in substantially equal installments of principal and interest

- payments commencing six months from the date of issuance and being paid semiannually thereafter. It is assumed that this practice will continue to be applied to the bonds which are proposed to be issued.
- (6) Sufficiency of proposed general obligation bonds 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 which the State proposes to issue during the remainder of fiscal year 1987-88 and during the fiscal years 1988-89 and 1989-90 is \$490,000,000. An additional \$160,000,000 is proposed to be issued in fiscal year 1990-91. The total amount of \$490,000,000 which is proposed to be issued through fiscal year 1989-90 is sufficient to meet the requirements of the authorized and unissued bonds, as adjusted, and the bonds authorized by this Act, the total amount of which is \$637,801,443, as reported in paragraph (4), except for \$147,801,443. It is assumed that the appropriations to which an additional \$147,801,443 in bond issuance needs to be applied will have been encumbered as of June 30, 1990. The \$160,000,000 which is proposed to be issued in fiscal year 1990-91 will be sufficient to meet the requirements of the June 30, 1990, encumbrances in the amount of \$147,801,443. The amount of assumed encumbrances as of June 30, 1990, 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 which is proposed to be issued by June 30, 1990, and the amount of June 30, 1990, encumbrances versus the amount of bonds which is proposed to be issued in fiscal year 1990-91, the legislature finds that in the aggregate, the amount of bonds which is 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. 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:
- (A) It is 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
- (B) While at the present time, all of the special funds which are required to make reimbursements to the general fund on bonds issued are in a condition to qualify all of the reimbursable bonds for exclusion, it cannot be stated with certainty that such a condition will continue. 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 calculation against the debt limit, as of March 1, 1988, is 12.64 per cent for the ten years from fiscal year 1988-89 to fiscal year 1997-98. For the purpose of this declaration, the assumption is made that 10 per cent of each bond

issue will be excludable from the debt limit, an assumption which the legislature finds to be reasonable and conservative.

- (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 an interest rate of 9.5 per cent, 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, and the bonds authorized by this Act, will not cause the debt limit to be exceeded at the time of each bond issuance:

Time of Issuance and Amount to be Counted Against Debt Limit	Debt Limit at Time of Issuance	Greatest Amount and Year of Highest Principal and Interest
Remainder FY 1987-88 \$72,000,000	\$294,052,838	\$226,423,785 (FY 1988-89)
1st half FY 1988-89 \$72,000,000	\$328,618,700	\$229,957,878 (FY 1989-90)
2nd half FY 1988-89 \$72,000,000	\$328,618,700	\$236,797,878 (FY 1989-90)
2nd half FY 1988-89 \$81,000,000	\$328,618,700	\$244,492,878 (FY 1989-90)
1st half FY 1989-90 \$72,000,000	\$355,011,298	\$250,638,896 (FY 1991-92)
2nd half FY 1989-90 \$72,000,000	\$355,011,298	\$257,478,896 (FY 1991-92)
1st half FY 1990-91 \$72,000,000	\$377,486,087	\$264,318,896 (FY 1991-92)
2nd half FY 1990-91 \$72,000,000	\$377,486,087	\$271,158,896 (FY 1991-92)

- (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, will not cause the debt limit to be exceeded at the time of issuance.

SECTION 2. The legislature finds the basis 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 H.B. No. 2081, H.D. 1, S.D. 1, C.D. 1 (the Supplemental Appropriations Act of 1988) and S.B. No. 2209, S.D. 2, H.D. 2 (Authorizing the Issuance of General Obligation Bonds and Making an Appropriation for the Waikiki Aquarium)², passed by this regular session of 1988, 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 the general obligation bonds so issued shall not exceed \$202,900,000.

Any law to the contrary notwithstanding, general obligation bonds may be issued from time to time in accordance with section 39-13, Hawaii Revised Statutes,

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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 3 the corresponding act numbers for bills identified therein.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 15, 1988.)

Notes

1. Act 390, this volume.
2. Acts 390 and 391, respectively, this volume.

ACT 393

H.B. NO. 2961

A Bill for an Act Relating to Corporations.

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

SECTION 1. Section 415-20, Hawaii Revised Statutes, is amended to read as follows:

“[§415-20] Stock rights and options. Subject to any provisions in respect thereof set forth in its articles of incorporation, a corporation may create and issue, whether or not in connection with the issuance and sale of any of its shares or other securities, rights or options entitling the holders thereof to purchase from the corporation shares of any class or classes. Such rights or options shall be evidenced in such manner as the board of directors shall approve and, subject to the provisions of the articles of incorporation, shall set forth the terms upon which, the time or times within which, and the price or prices at which, such shares may be purchased from the corporation upon the exercise of any right or option. If such rights or options are to be issued to directors, officers, or employees of the corporation or of any subsidiary thereof, and not to the shareholders generally, their issuance shall be approved by the affirmative vote of the holders of a majority of the shares entitled to vote thereon or shall be authorized by and consistent with a plan approved or ratified by a vote of shareholders. In the absence of fraud in the transaction, the judgment of the board of directors as to the adequacy of the consideration received for such rights or options shall be conclusive. The documents evidencing such rights or options may include conditions on the exercise of such rights or options, including conditions that preclude the holder or holders, including any subsequent transferees, of at least a specified percentage of the common shares of a corporation from exercising such rights or options.”

SECTION 2. New statutory material is underscored.

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

(Approved June 17, 1988.)

ACT 394

S.B. NO. 2184

A Bill for an Act Relating to Collective Bargaining.

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

SECTION 1. Section 89-6, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) All employees throughout the State within any of the following categories shall constitute an appropriate bargaining unit:

- (1) Nonsupervisory employees in blue collar positions;
- (2) Supervisory employees in blue collar positions;
- (3) Nonsupervisory employees in white collar positions;
- (4) Supervisory employees in white collar positions;
- (5) Teachers and other personnel of the department of education under the same salary schedule[;], including part-time employees working less than twenty hours a week who are equal to one-half a full-time equivalent;
- (6) Educational officers and other personnel of the department of education under the same salary schedule;
- (7) Faculty of the University of Hawaii and the community college system;
- (8) Personnel of the University of Hawaii and the community college system, other than faculty;
- (9) Registered professional nurses;
- (10) Nonprofessional hospital and institutional workers;
- (11) Firefighters;
- (12) Police officers; and
- (13) Professional and scientific employees, other than registered professional nurses.

Because of the nature of work involved and the essentiality of certain occupations which require specialized training, units (9) through (13) are designated as optional appropriate bargaining units. Employees in any of these optional units may either vote for separate units or for inclusion in their respective units (1) through (4). If a majority of the employees in any optional unit desire to constitute a separate appropriate bargaining unit, supervisory employees may be included in the unit by mutual agreement among supervisory and nonsupervisory employees within the unit; if supervisory employees are excluded, the appropriate bargaining unit for such supervisory employees shall be (2) or (4), as the case may be.

The compensation plans for blue collar positions pursuant to section 77-5 and for white collar positions pursuant to section 77-13, the salary schedules for teachers pursuant to section 297-33 and for educational officers pursuant to section 297-33.1, and the appointment and classification of faculty pursuant to sections 304-11 and 304-13, existing on July 1, 1970, shall be the bases for differentiating blue collar from white collar employees, professional from nonprofessional employees, supervisory from nonsupervisory employees, teachers from educational officers, and faculty from nonfaculty. In differentiating supervisory from nonsupervisory employees, class titles alone shall not be the basis for determination, but, in addition, the nature of the work, including whether or not a major portion of the working time of a supervisory employee is spent as part of a crew or team with nonsupervisory employees, shall also be considered."

2. By amending subsection (c) to read:

"(c) No elected or appointed official, member of any board or commission, representative of a public employer, including the administrative officer, director, or chief of a state or county department or agency, or any major division thereof,

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as well as any first deputy, first assistant, legal counsel, and other top-level managerial and administrative personnel, secretary to top-level managerial and administrative personnel, individual concerned with confidential matters affecting employee-employer relations, [part time] part-time employee working less than twenty hours per week[,] except part-time employees included in unit (5), temporary employee of three [months] months' duration or less, employee of the executive office of the governor, household employee at Washington Place, employee of the executive office of the mayor, staff of the legislative branch of the State, employee of the executive office of the lieutenant governor, inmate, kokua, patient, ward or student of a state institution, student help, any commissioned and enlisted personnel of the Hawaii national guard, or staff of the legislative [branch] branches of the city and county of Honolulu and counties of Hawaii, Maui, and Kauai, except employees of the clerks' offices of said city and county and counties, shall be included in any appropriate bargaining unit or entitled to coverage under this chapter."

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

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

(Approved June 17, 1988.)

ACT 395

H.B. NO. 37

A Bill for an Act Relating to Right to Sue by Native Hawaiian and Hawaiian Individuals and Organizations.

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

SECTION 1. **Findings and purpose.** (a) On July 9, 1921, the Congress of the United States enacted the Hawaiian Homes Commission Act, 1920, to provide for the social and economic self-sufficiency of native Hawaiians, defined under section 201(a)(7) of the Act.

The legislature finds that pursuant to section 4 of the Admission Act, the provisions of the Hawaiian Homes Commission Act, 1920, as amended, have been adopted and incorporated into the Constitution of the State of Hawaii.

(b) Section 5(f) of the Admission Act provides that certain "lands, proceeds, and income shall be managed . . . in such manner as the constitution and laws of said State may provide, . . ." thereby allowing for the establishment of the office of Hawaiian affairs.

(c) The legislature finds that in the creation of a public trust the right to enforce the public trust by the beneficiaries should be granted.

(d) The purpose of this Act is to provide native Hawaiian individuals and their successors to homestead leases (as provided in section 209 of the Act) the right to sue in the courts of the State of Hawaii to enforce the provisions of the Hawaiian Homes Commission Act, as amended.

(e) The purpose of this Act is also to provide native Hawaiians as defined in section 10-2 of the Hawaii Revised Statutes, the right to sue in the courts of the State of Hawaii to enforce the provisions of the public trust created by Article XII, sections 4, 5, and 6 of the State Constitution implementing section 5(f) of the Admission Act.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

“CHAPTER NATIVE HAWAIIAN TRUSTS JUDICIAL RELIEF ACT

§ - Waiver of immunity. (a) The State waives its immunity for any breach of trust or fiduciary duty resulting from the acts or omissions of its agents, officers and employees in the management and disposition of trust funds and resources of:

- (1) The Hawaiian home lands trust under Article XII, sections 1, 2, and 3 of the Constitution of the State of Hawaii, implementing sections 4 and 5(f) of the Admissions Act (Act of March 18, 1959, Public Law 86-3, 73 Stat. 4); and
- (2) The native Hawaiian public trust under Article XII, sections 4, 5, and 6 of the Constitution of the State of Hawaii implementing section 5(f) of the Admission Act;

and shall be liable in the same manner and to the same extent as a private individual under like circumstances, but shall not be liable for punitive damages.

(b) This waiver shall not apply to the following:

- (1) The acts or omissions of the State's officers and employees, even though such acts or omissions may not realize maximum revenues to the Hawaiian home lands trust and native Hawaiian public trust, so long as each trust is administered in the sole interest of the beneficiaries; provided that nothing herein shall prevent the State from taking action which would provide a collateral benefit to non-beneficiaries, but only so long as the primary benefits are enjoyed by beneficiaries, and the collateral benefits do not detract from nor reduce the benefits enjoyed by the beneficiaries;
- (2) Any claim for which a remedy is provided elsewhere in the laws of the State; and
- (3) Any claim arising out of the acts or omissions of the members of the board of trustees, officers and employees of the office of Hawaiian affairs, except as provided in section 10-16.

§ - Right to sue. (a) Native Hawaiians as defined in section 201(a)(7) of the Hawaiian Homes Commission Act, native Hawaiian organizations, the office of Hawaiian affairs, and Hawaiians defined as any person who is qualified to succeed to a homestead lease under section 209 of the Hawaiian Homes Commission Act 1920, as amended, shall have the right to bring an action in the circuit courts of the State to resolve controversies relating to the Hawaiian home lands trust described in section - (a)(1).

(b) The office of Hawaiian affairs, native Hawaiians as defined in section 10-2, and native Hawaiian organizations shall have the right to bring an action in the circuit courts of the State to resolve controversies relating to the native Hawaiian public trust described in section - (a)(2).

(c) “Native Hawaiian organizations” as used in this chapter means a native Hawaiian homestead organization, or an unincorporated association, or corporation which is duly organized and thereby able to sue and be sued under the laws of this State and whose purpose is to protect and uphold the Hawaiian Homes Commission Act and the Admission Act section 5(f) relating to a public trust for the betterment of the conditions of native Hawaiians, or the social and economic self-sufficiency of native Hawaiians, and which organized body is controlled by native Hawaiians and a majority of its members receives or can receive benefits from the trust.

§ - Exhaustion of administrative remedies. Before an action may be filed in circuit court under this chapter, the party filing suit shall have exhausted

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all administrative remedies available, and shall have given not less than sixty days written notice prior to filing of the suit that unless appropriate remedial action is taken suit shall be filed. All executive branch departments shall adopt in accordance with chapter 91, such rules as may be necessary to specify the procedures for exhausting any remedies available.

§ - Scope of relief. (a) In an action under this chapter the court may only award land or monetary damages to restore the trust which has been depleted as a result of any breach of trust duty and no award shall be made directly to or for the individual benefit of any particular person not charged by law with the administration of the trust property; provided that actual damages may be awarded to a successful plaintiff.

(b) "Actual damages", as used in this section, means direct, monetary, out of pocket loss, excluding noneconomic damages as defined in section 663-8.5 and any consequential damages, sustained by a native Hawaiian or Hawaiian individually rather than the class generally.

§ - Attorney's fees and costs. (a) In any action under this chapter, the court shall, upon a specific finding that a non-prevailing party's claim or defense was frivolous, assess against such party and award to the prevailing party, and enter as part of its order or judgment, a reasonable sum for costs and expenses incurred, including reasonable attorney's fee.

(b) In any action brought under this chapter in which there is no finding by the court that the claims pled were frivolous the court may, as it deems just, award to a prevailing plaintiff and enter as a part of its order or judgment, a reasonable sum for costs and expenses incurred, including reasonable attorney's fees.

§ - Award or judgment as bar. An award or judgment in an action under this chapter shall constitute a complete bar to any action by the claimant, by reason of the same subject matter, against the agent, officer, or employee of the State whose act or omission gave rise to the claim.

§ - Limited remedy. This chapter shall not be construed to limit or enlarge the scope of rights available under any other claims, proceedings or other actions against the State, its officers and employees, arising under chapter 662 or other provisions of law.

§ - Proof of liability. In no action under this chapter shall any liability be implied against the State, and no award shall be made against the State except upon such legal evidence as would establish liability against an individual or corporation.

§ - Inapplicability to share of office of Hawaiian affairs. This chapter shall not apply to suits in equity or law brought by or on behalf of the office of Hawaiian affairs in which the matters in controversy involve the proportionate share of ceded land or special fund revenues allocated to the office of Hawaiian affairs by the legislature.

§ - Limitation on actions; native Hawaiians. Every claim arising under this chapter shall forever be barred unless the action is commenced within two years after the cause of action first accrues; provided that this statute of limitations shall be tolled until July 1, 1990; provided further that the filing of the claim in an administrative proceeding pursuant to this Act shall toll any applicable statute of limitations, and any such statute of limitations shall remain tolled until ninety days after the date the decision is rendered in the administrative proceeding.

SECTION 3. This Act shall not apply to any cause of action which accrued, rights and duties that matured, penalties that were incurred, or proceedings that were begun, prior to July 1, 1988.

SECTION 4. No action shall be maintained under this Act for any existing projects, programs, or any other governmental activities which are continuing, and which were begun, completed, or established prior to July 1, 1988.

SECTION 5. The governor shall present a proposal to the legislature to resolve controversies which arose between August 21, 1959 and the date of this Act, relating to the Hawaiian home lands trust under Article XII, sections 1, 2, and 3 of the Constitution of the State of Hawaii implementing sections 4 and 5(f) of the Admission Act (Act of March 18, 1959, Public Law 86-3, 73 Stat. 4), and the native Hawaiian public trust under Article XII, sections 4, 5, and 6 of the Constitution of the State of Hawaii implementing section 5(f) of the Admission Act.

If, (1) both of the following occur:

- (a) The governor fails to present a proposal to the legislature prior to the convening of the 1991 legislature in regular session; and
 - (b) No other means of resolving such controversies is otherwise provided by law by July 1, 1991, or
- (2) All three of the following occur:
- (a) The governor presents a proposal;
 - (b) A resolution calling for the rejection of the governor's proposal is adopted by two-thirds vote of the house introducing such resolution; and
 - (c) No other means of resolving such controversies is otherwise provided by law, by July 1, 1991,

then in the event of the occurrence of either (1)(a) and (b) or (2)(a), (b) and (c), notwithstanding sections 3 and 4 of this Act, a claim for actual damages under this Act which accrued between August 21, 1959, and the date of this Act may be instituted no later than June 30, 1993, provided that the filing of a claim for actual damages in an administrative proceeding before June 30, 1993, shall toll the statute of limitations until ninety days after the date the decision is rendered in the administrative proceeding.

SECTION 6. **Severability.** 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 on July 1, 1988.

(Approved June 17, 1988.)

ACT 396

S.B. NO. 2171

A Bill for an Act Relating to the Salary of District Court Judges.

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

SECTION 1. Section 571-8.2, Hawaii Revised Statutes, is amended to read as follows:

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"§571-8.2 Salary of district family judges. [Effective January 1, 1986, the] The salary of each district family court judge of the various district family courts of the State shall be [\$59,500 a year.] the same as that of district court judges under section 604-2.5.

Whenever the chief justice appoints a district family court judge of any of the various district family courts of the State to serve temporarily as a circuit court judge of any of the various circuit courts of the State, the judge shall receive per diem compensation for the days on which actual service is rendered based on the monthly rate of compensation paid to a circuit court judge. For the purpose of determining per diem compensation in this section, a month shall be deemed to consist of twenty-one days."

SECTION 2. Section 604-2.5, Hawaii Revised Statutes, is amended to read as follows:

"§604-2.5 Salary of district judges. Effective January 1, 1986, the salary of each district court judge of the various district courts of the State shall be [\$59,500] \$64,500 a year.

Whenever the chief justice appoints a district court judge of any of the various district courts of the State to serve temporarily as a circuit court judge of any of the various circuit courts of the State, the judge shall receive per diem compensation for the days on which actual service is rendered based on the monthly rate of compensation paid to a circuit court judge. For the purpose of determining per diem compensation in this section, a month shall be deemed to consist of twenty-one days."

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$218,500, or so much thereof as may be necessary for fiscal year 1988-1989, for the salary increases mandated by this Act.

SECTION 4. The sum appropriated shall be expended by the judiciary for the purposes of this Act.

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

SECTION 6. This Act shall take effect on July 1, 1988.

(Approved June 17, 1988.)

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S.B. NO. 2681

A Bill for an Act Relating to Aeronautics.

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

SECTION 1. Chapter 261, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§261- Helicopter master plan; advisory committee. (a) The legislature recognizes that air traffic congestion on the ground constitutes a serious safety problem and reduces the efficient and effective use of the limited space in airport facilities. The legislature also recognizes the increased use of airport facilities by helicopters for commercial purposes.

The legislature is determined to ensure that all possible actions are taken to promote safety, alleviate safety hazards, and reduce congestion at airports under

the State's control. The department of transportation shall do everything within its authority to enhance the safe use of the State's airports and shall cooperate with appropriate federal agencies and other affected parties to assist the agencies in meeting their responsibilities to alleviate safety hazards. In carrying out this responsibility, the department shall develop and implement a master plan, hereinafter referred to as the "helicopter master plan", for helicopter operations for each airport under the State's control.

(b) The director shall adopt a helicopter master plan for each state airport that shall include but not be limited to:

- (1) The extent, type, nature, location, and timing of helicopter operations and helicopter facilities development at each state airport;
- (2) The layout plans of existing and proposed helicopter facilities at each state airport;
- (3) The determination of the maximum number of helicopters that can be accommodated at each state airport;
- (4) The determination of the extent of emergency services, maintenance, and operations at each state airport; and
- (5) An assessment of impact on surrounding areas.

(c) The director shall not make or permit any addition or alteration to any helicopter facilities at any state airport other than those additions or alterations in conformity with the helicopter master plan for that state airport.

(d) The helicopter master plan shall be submitted to the legislature no later than twenty days prior to the convening of the regular session of 1989, and thereafter shall be formally reviewed every five years.

(e) There is established an advisory committee within each county which shall sit in an advisory capacity to the director on matters relating to the helicopter master plan for each state airport. Each advisory committee shall consist of not more than thirteen members to be appointed by the director and whose membership shall include representatives from the helicopter industry and the communities adjacent to the airport. Each advisory committee shall be placed for administrative purposes only, within the department of transportation. Each member of an advisory committee shall serve without compensation.

(f) For the purposes of this section, "helicopter operation" means the operation of a helicopter company from an airport under the State's control."

SECTION 2. Section 261-12, Hawaii Revised Statutes, is amended to read as follows:

"§261-12 Rules, standards. (a) Powers to adopt. The director of transportation may perform such acts, issue and amend such orders, adopt such reasonable general or special rules and procedures, and establish such minimum standards, consistent with this chapter, as the director deems necessary to carry out this chapter and to perform the duties assigned thereunder, all commensurate with and for the purpose of protecting and insuring the general public interest and safety, the safety of persons operating, using, or traveling in aircraft, and the safety of persons and property on land or water, and developing and promoting aeronautics in the State. No rule of the director shall apply to airports or air navigation facilities owned or operated by the United States.

In furtherance of the duties assigned under this chapter, the director may adopt rules relating to:

- (1) Safety measures, requirements and practices in or about the airport premises;

- (2) The licensing and regulation of persons engaged in commercial activities in or about the airport premises;
- (3) The regulation of equipment and motor vehicles operated in or about the airport operational area;
- (4) Airport security measures or requirements, and designation of sterile passenger holding areas and operational areas;
- (5) The regulation of motor vehicles and traffic;
- (6) Any other matter relating to the health, safety and welfare of the general public and persons operating, using, or traveling in aircraft.

(b) Any other law to the contrary notwithstanding, no tour aircraft operation shall be permitted in any airport under the State's control without first obtaining a permit. The director shall adopt rules to regulate tour aircraft operations by permit which shall include but not be limited to:

- (1) Identification of the types of aircraft to be utilized;
- (2) The number of operations daily for each type of aircraft used and the days and hours of operation;
- (3) Verification that the applicant is in compliance with all state statutes, including but not limited to section 261-12;
- (4) A written assessment by the department of the impact to the surrounding area and to the subject state airport;
- (5) Revocation of a permit based on the failure to comply with the information provided by the applicant and the terms and conditions set forth by the department in the permit; and any false statement or misrepresentation made by the applicant;
- (6) Establishment of penalties for revocation and suspension of a permit for failure to comply with permit conditions;
- (7) Annual renewal of permits; and
- (8) Any change of operations under the existing permit to be approved by the director.

No permit shall be authorized unless accompanied by:

- (1) A Hawaii sectional aeronautical chart marked to indicate routes and altitudes to be used in conducting aerial tours; and
- (2) Noise abatement procedures to be employed in the vicinity of identified noise sensitive areas.

For the purposes of this subsection, "tour aircraft operations" means any business operation which offers aircraft for hire by passengers for the purpose of aerial observation of landmarks and other manmade or natural sites within an island of the State, and for the purpose of transporting passengers for tourist-related activities.

[(b)] (c) Definitions. For the purpose of this section, if not inconsistent with the context:

"Sterile passenger holding area" means any portion of a public airport designated by the director and identified by appropriate signs as an area into which access is conditioned upon the prior inspection of persons and property in accordance with the approved Federal Aviation Administration air carrier screening program.

"Operational area" means any portion of a public airport, from which access by the public is prohibited by fences or appropriate signs, and which is not leased or demised to anyone for exclusive use and includes runways, taxiways, all ramps, cargo ramps and apron areas, aircraft parking and storage areas, fuel storage areas, maintenance areas, and any other area of a public airport used or intended to be used for landing, takeoff or surface maneuvering of aircraft or used for embarkation or debarkation of passengers.

Notwithstanding the restriction on access by the public into operational areas, entry may be authorized for airport operational area related purposes with the prior permission of the director or the director's duly authorized representative.

[(c)] (d) Conformity to federal legislation and rules. No rules, orders, or standards prescribed by the director shall be inconsistent with, or contrary to, any act of the Congress of the United States or any regulation promulgated or standard established pursuant thereto.

[(d)] (e) How made. All rules having the force and effect of law, shall be adopted by the director pursuant to chapter 91.

[(e)] (f) Distribution. The director shall provide for the publication and general distribution of all of its rules and procedures having general effect."

SECTION 3. 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 provisions or application, and to this end the provisions of this Act are severable.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 5. This Act shall take effect upon its approval; provided that Section 2 of this Act shall take effect January 1, 1989.

(Approved June 17, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 398

S.B. NO. 2584

A Bill for an Act Relating to Bishop Museum.

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

SECTION 1. The legislature finds that Bernice Pauahi Bishop Museum has been the primary repository of Hawaiian and Pacific region artifacts in the State and the Territory since 1921, and for ninety-seven years has made its reputation as a world-renowned scientific and cultural institution.

The legislature also finds that Bishop Museum continues to serve all of the people of Hawaii, from school children to adults, and from tourists and other visitors to our islands to scholars throughout the world, who all benefit from the outstanding collections, research, exhibits, and educational programs.

The legislature also recognizes that the Bishop Museum, throughout its many years of service, has established critical areas of expertise and reference of lasting value to Hawaii and its people through:

- (1) Its gathering, preserving, storing, and sharing of the tangible evidence of Hawaii's natural and cultural history;
- (2) Its staff who annually contribute hundreds of hours of expertise and support to over fifty state government agencies, departments, and affiliated organizations; and without whom many basic questions concerning Hawaii's people, plants, and animals could not be answered with efficiency and confidence;

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- (3) Its library which serves as one of the three main Pacific libraries in the world, with more than 90,000 items, half of which are considered rare; a photographic collection of more than half-a-million images; and the only geographic center in the world devoted exclusively to the Pacific;
- (4) Its press which is the oldest continuing publisher of scholarly books west of the Mississippi having published over 1,200 titles, including classics such as Hawai'i: A Pictorial History and Mary Kawena Pukui's Hawaiian Proverbs and Poetic Sayings.

The legislature also recognizes that the Bishop Museum has served "de facto" for nearly a century as Hawaii's state museum without benefit of regular, predictable support from state sources to assist in the preservation of its irreplaceable collections, to staff research programs, and to plan and present its exhibits and educational programs.

SECTION 2. It is, therefore, the desire of the legislature that the Bishop Museum is officially designated as the State Museum of Natural and Cultural History. This status shall be implemented through an annual appropriation from the general revenues of the State of Hawaii.

SECTION 3. The designation shall not impinge on the autonomy of the Museum, nor imply state control over its programs or policies, except as specifically provided in this section. The comptroller and the legislative auditor shall have the authority to examine the use of state funds and shall report any findings to the legislature. The director of the Museum shall provide an annual report not later than twenty days before the legislature convenes each regular session. At a minimum, the annual report shall include an explanation of the facility maintenance and other functions accomplished by state fund expenditures in the previous fiscal year.

SECTION 4. Chapter 6E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§6E- Bernice Pauahi Bishop Museum. The official designation of the Bernice Pauahi Bishop Museum shall be the State of Hawaii Museum of Natural and Cultural History. The qualifying standards and conditions related to the receipt of funds contained in chapter 42 shall not apply to funds received by the State of Hawaii Museum of Natural and Cultural History; provided that if the museum in turn contracts with a recipient or provider, then the qualifying standards, conditions, and other provisions of chapter 42 shall apply to the recipient or provider and the contract."

SECTION 5. New statutory material is underscored.¹

SECTION 6. This Act shall take effect on July 1, 1988.

(Approved June 17, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.

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S.B. NO. 3164

A Bill for an Act Relating to Collective Bargaining.

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

SECTION 1. Section 89-10, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Because effective and orderly operations of government are essential to the public, it is declared to be in the public interest that in the course of collective bargaining, the public employer and [each] the exclusive representative for each bargaining unit shall by mutual agreement include provisions in the collective bargaining agreement for that bargaining unit for an expiration date which will [coincide with an expiration date of June 30, 1977, for all public sector collective bargaining agreements. Any subsequent expiration dates shall be on June 30th of odd numbered years, to be determined jointly by all exclusive representatives and public employers.] be on June 30th of an odd-numbered year.

The parties may include provisions for the reopening date during the term of a collective bargaining agreement, provided that such provisions shall not allow for the reopening of cost items as defined in section 89-2.”

SECTION 2. Section 89-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) All employees throughout the State within any of the following categories shall constitute an appropriate bargaining unit:

- (1) Nonsupervisory employees in blue collar positions;
- (2) Supervisory employees in blue collar positions;
- (3) Nonsupervisory employees in white collar positions;
- (4) Supervisory employees in white collar positions;
- (5) Teachers and other personnel of the department of education under the same salary schedule;
- (6) Educational officers and other personnel of the department of education under the same salary schedule;
- (7) Faculty of the University of Hawaii and the community college system;
- (8) Personnel of the University of Hawaii and the community college system, other than faculty;
- (9) Registered professional nurses;
- (10) [Nonprofessional hospital and institutional workers] Institutional, health and correctional workers;
- (11) Firefighters;
- (12) Police officers; and
- (13) Professional and scientific employees, other than registered professional nurses.

Because of the nature of work involved and the essentiality of certain occupations which require specialized training, units (9) through (13) are designated as optional appropriate bargaining units. Employees in any of these optional units may either vote for separate units or for inclusion in their respective units (1) through (4). If a majority of the employees in any optional unit desire to constitute a separate appropriate bargaining unit, supervisory employees may be included in the unit by mutual agreement among supervisory and nonsupervisory employees within the unit; if supervisory employees are excluded, the appropriate bargaining unit for such supervisory employees shall be (2) or (4), as the case may be.

The compensation plans for blue collar positions pursuant to section 77-5 and for white collar positions pursuant to section 77-13, the salary schedules for

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teachers pursuant to section 297-33 and for educational officers pursuant to section 297-33.1, and the appointment and classification of faculty pursuant to sections 304-11 and 304-13, existing on July 1, 1970, shall be the bases for differentiating blue collar from white collar employees, professional from [nonprofessional employees,] institutional, health and correctional workers, supervisory from nonsupervisory employees, teachers from educational officers, and faculty from nonfaculty. In differentiating supervisory from nonsupervisory employees, class titles alone shall not be the basis for determination, but, in addition, the nature of the work, including whether or not a major portion of the working time of a supervisory employee is spent as part of a crew or team with nonsupervisory employees, shall also be considered.”

SECTION 3. Section 89-7, Hawaii Revised Statutes, is amended to read as follows:

“[[§89-7[]] **Elections.** (a) Whenever, in accordance with regulations as may be prescribed by the board pursuant to chapter 91, a petition is filed by an employee organization [after January 1, 1971, showing written proof of at least thirty per cent representation of the public employees in an appropriate bargaining unit, the board shall hold an election by secret ballot to determine whether and by which employee organization the employees desire to be represented for the purpose of collective bargaining. The ballot shall contain, in addition, both the name of any candidate showing written proof of at least ten per cent representation of the public employees within the unit, and a provision for marking “no representation”.] to determine whether or by which organization employees desire to be represented for the purpose of collective bargaining, the board shall conduct an investigation and may conduct an election where appropriate as specified herein. A petition to decertify or to change the exclusive bargaining representative must be supported by fifty percent of employees in an appropriate bargaining unit, through verifiable written proof of the names and signatures of employees. Signatures of employees supporting such a petition must be obtained within two months of the date of the petition to be valid with the Board. In its investigation of the showing of interest, the Board shall afford all interested parties a contested case hearing.

(b) In any election in which none of the choices on the ballot receives a majority of the votes cast, a runoff election shall be conducted, the ballot providing for a selection between the two choices receiving the largest number of valid votes cast in the election. The board shall certify the results of the election, and where an employee organization receives a majority of the votes cast, the board shall certify the employee organization as the exclusive representative of all employees in the appropriate bargaining unit for the purpose of collective bargaining.

(c) No election shall be directed by the board in any appropriate bargaining unit within which (1) a valid election has been held in the preceding twelve months; or (2) a valid collective bargaining agreement is in force and effect[, except upon a petition as provided herein not more than ninety days, but not less than sixty days, prior to the expiration of the agreement].

(d) The board shall adopt rules and regulations consistent with this section governing the conduct of elections to determine representation, including the time, place, manner of notification, and reporting the results of elections, and the manner for filing any petition for an election and decertification election or any petition concerning the results of an election. No mail ballots shall be permitted by the board except when for reasonable cause a specific individual would otherwise be unable to cast a ballot. No names, addresses or information regarding the work location of employees eligible to vote shall be provided to employee organizations involved in an election. The board shall have the final determination on any controversy concerning the eligibility of an employee to vote.”

SECTION 4. Section 89-9, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Excluded from the subjects of negotiations are matters of classification and reclassification, benefits of but not contributions to the Hawaii public employees health fund, retirement benefits, and the salary ranges now provided by law; provided that the number of incremental and longevity steps, the amount of wages to be paid in each range and step, and movement between steps within the salary range shall be negotiable. The employer and the exclusive representative shall not agree to any proposal which would be inconsistent with merit principles or the principle of equal pay for equal work pursuant to sections 76-1, 76-2, 77-31, and 77-33, or which would interfere with the rights of a public employer to (1) direct employees; (2) determine qualifications, standards for work, the nature and contents of examinations, hire, promote, transfer, assign, and retain employees in positions and suspend, demote, discharge, or take other disciplinary action against employees for proper cause; (3) relieve an employee from duties because of lack of work or other legitimate reason; (4) maintain efficiency of government operations; (5) determine methods, means, and personnel by which the employer's operations are to be conducted; and take such actions as may be necessary to carry out the missions of the employer in cases of emergencies[.]; provided that the employer and the exclusive representative may negotiate procedures governing the promotion and transfer of employees to positions within a bargaining unit, procedures governing the suspension, demotion, discharge or other disciplinary actions taken against employees, and procedures governing the lay-off of employees; provided further that violations of the procedures so negotiated may be the subject of a grievance process agreed to by the employer and the exclusive representative.”

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

SECTION 6. This Act shall take effect and be applicable in any proceeding and to any case which commences on March 15, 1988 and thereafter before the Hawaii Labor Relations Board.

(Approved June 17, 1988.)

ACT 400

H.B. NO. 3404

A Bill for an Act Relating to Compensation for State Service.

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

SECTION 1. **Purpose.** The purpose of this Act is to allow the chief executives of the State and counties and the chief justice, or their designated representatives (e.g., the state director of personnel services) to adjust the pay of all current excluded managerial employees who have remained incumbents since the excluded managerial compensation plan (EMCP) went into effect on July 1, 1981, and those current employees who are similarly assigned to the plan without a pay increase prior to July 1, 1982 (hereinafter referred to as charter members).

SECTION 2. Lump sum payments and current pay adjustments shall be granted to charter members. The lump sum payment shall be computed as if adjustments were made as follows: beginning from July 1, 1981, each such employee's pay shall be adjusted by amounts equal to the dollar differences between the min-

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imum rates of the initial EM range and the minimum rates of the comparable SR range. The current pay adjustment shall be computed in the same manner and the resultant pay rate, in effect on July 1, 1988, shall not be further adjusted under the provisions of this Act.

SECTION 3. The methods of computation necessary to achieve the purposes of this Act shall be uniformly determined and applied by all jurisdictions.

SECTION 4. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity will not affect other provisions or applications of the Act which can be effected without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 5. There is hereby appropriated or authorized from the sources of funding indicated below to Program Planning, Analysis, and Budget Program (BUF 101), the following sums, or so much thereof as may be necessary for fiscal year 1988-1989, to fund the adjustments in state executive branch adjustments pursuant to section 2 of this Act:

<u>Source of Funds</u>	
General Funds	\$1,517,210
Special Funds	456,468
Federal Funds	85,702
Other Funds	31,281

Funds appropriated or authorized by this section shall be expended by the director of finance for the purposes of this Act.

SECTION 6. There is hereby appropriated or authorized from the sources of funding indicated below to Administrative Director Services (JUD 201) the following sums, or so much thereof as may be necessary for fiscal year 1988-1989, to fund state judicial branch adjustments to be made pursuant to section 2 of this Act:

<u>Source of Funds</u>	
General Funds	\$ 48,462

Funds appropriated or authorized by this part shall be expended by the chief justice for the purposes of this Act.

SECTION 7. There is hereby appropriated or authorized from the state general fund the following sums, or so much thereof as may be necessary for fiscal year 1988-1989, to fund county adjustments to be made pursuant to section 2 of this Act:

City & County of Honolulu	\$1,306,758
County of Hawaii	247,272
County of Maui	226,400
County of Kauai	237,500

Funds appropriated or authorized by this Act shall be expended by the respective county finance director for the purposes of this Act.

SECTION 8. The provisions of this Act shall not be interpreted as affected by Article 5, section 8, of the Hawaii State Constitution. The funds provided for

the fiscal year 1988-1989 to the counties are of a one-time nature to assist them in the smooth implementation of the provisions of this Act. Thereafter, costs shall be borne by each jurisdiction independently.

SECTION 9. This Act shall take effect on July 1, 1988.

(Approved June 17, 1988.)

ACT 401

H.B. NO. 3414

A Bill for an Act Relating to the Civil Service Secretarial Compensation Plans.

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

SECTION 1. The legislature believes that in order to attract and retain competent persons for government service, it is essential to adequately and to equally compensate them for their work. With this belief, the legislature during the past legislative session addressed a concern regarding pay inequities within the secretarial classes.

In a review comparing the approved compensation plans covering the secretarial classes within the civil service of the State of Hawaii with the approved compensation plans covering the secretarial classes of the department of education, there was an indication of pay inequities within the secretarial classes.

Pursuant to chapter 77, Hawaii Revised Statutes, it is the responsibility of the conference of personnel directors to compile and to recommend to the public employees compensation appeals board a tentative compensation plan for all classes in the civil service system. The public employees compensation appeals board would then make the necessary adjustments to the compensation plan, which is binding on all jurisdictions.

During the regular session of 1987, the legislature adopted H.R. No. 358, requesting the conference of personnel directors to conduct a review of the secretarial classes to focus on these inequities. Despite concerns expressed by the legislature and the affected members of the secretarial classes, the conference of personnel directors and the public employees compensation appeals board have not corrected these inequities. The legislature understands that such alleged inequities may adversely affect the morale and efficiency of individuals within these secretarial classes and believes that this matter again should be looked into to remedy this situation.

The purpose of this Act is to have the legislative reference bureau conduct a study of the compensation plans of the secretarial classes within the civil service of the State of Hawaii for the purpose of correcting any pay inequities.

SECTION 2. The legislative reference bureau shall conduct a study to compare and review the compensation plans for the secretarial classes within the civil service of the State of Hawaii. The legislative reference bureau shall consult with a representative of the public employees management association of Hawaii, a representative of the Hawaii government employees association, and a representative of the secretarial association when conducting this study.

SECTION 3. The legislative reference bureau shall submit a report of its findings and recommendations to the legislature twenty days prior to the convening of the regular session of 1989. After a review of the findings and recommendations of the legislative reference bureau, the legislature may submit the report to the public employees compensation appeals board whereupon the necessary adjustments, if any, to the compensation plan shall be made.

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SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$75,000, or so much thereof as may be necessary for fiscal year 1988-1989, for the purposes of this Act.

SECTION 5. The sum appropriated shall be expended by the legislative reference bureau for the purposes of this Act.

SECTION 6. This Act shall take effect on July 1, 1988.

(Approved June 17, 1988.)

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S.B. NO. 3001

A Bill for an Act Relating to Liquor.

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

SECTION 1. Section 328-6, Hawaii Revised Statutes, is amended to read as follows:

“§328-6 Prohibited acts. The following acts and the causing thereof within the State by any person are prohibited:

- (1) The manufacture, sale, delivery, holding, or offering for sale of any food, drug, device, or cosmetic that is adulterated or misbranded;
- (2) The adulteration or misbranding of any food, drug, device, or cosmetic;
- (3) The receipt in commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise;
- (4) The sale, delivery for sale, holding for sale, or offering for sale of any article in violation of section 328-11, 328-12, or 328-17;
- (5) The dissemination of any false advertisement;
- (6) The refusal to permit entry or inspection, or to permit the taking of a sample, as authorized by sections 328-22, 328-23 to 328-27, or to permit access to or copying of any record as authorized by section 328-23;
- (7) The giving of a guaranty or undertaking which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of the person residing in the State from whom he received in good faith the food, drug, device, or cosmetic;
- (8) The removal or disposal of a detained or embargoed article in violation of sections 328-25 to 328-27;
- (9) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a food, drug, device, or cosmetic, if the act is done while the article is held for sale and results in the article being adulterated or misbranded;
- (10) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label, or other identification device authorized or required by regulations promulgated under this part of the Federal Act;
- (11) The using, on the labeling of any drug or in any advertisement relating to the drug, of any representation or suggestion that an application with respect to the drug is effective under section 328-17, or that the drug complies with the provisions of such section;

- (12) The using by any person to his own advantage, or revealing other than to the department of health or to the courts when relevant in any judicial proceeding under this part, any information acquired under authority of section 328-11, 328-12, 328-17, or 328-23, concerning any method or process which as a trade secret is entitled to protection;
- (13) In the case of a prescription drug distributed or offered for sale in this State, the failure of the manufacturer, packer, or distributor thereof to maintain for transmittal, or to transmit, to any practitioner licensed by applicable law to administer the drug who makes written request for information as to the drug, true and correct copies of all printed matter which is required to be included in any package in which that drug is distributed or sold, or such other printed matter as is approved under the Federal Act. Nothing in this paragraph shall be construed to exempt any person from any labeling requirement imposed by or under other provisions of this part;
- (14)
 - (A) Placing or causing to be placed upon any drug or device or container thereof, with intent to defraud, the trade name or other identifying mark, or imprint of another or any likeness of any of the foregoing; or
 - (B) Selling, dispensing, disposing of, or causing to be sold, dispensed, or disposed of, or concealing or keeping in possession, control, or custody, with intent to sell, dispense, or dispose of, any drug¹ device, or any container thereof, with knowledge that the trade name or other identifying mark or imprint of another or any likeness of any of the foregoing has been placed thereon in a manner prohibited by subparagraph (A) hereof; or
 - (C) Making, selling, disposing of, or causing to be made, sold, or disposed of, or keeping in possession, control, or custody, or concealing, with intent to defraud, any punch, die, plate, or other thing designed to print, imprint, or reproduce that trade name or other identifying mark or imprint of another or any likeness of any of the foregoing upon any drug, device, or container thereof;
- (15) Except as provided in part VI, dispensing or causing to be dispensed a different drug or brand of drug in place of the drug or brand of drug ordered or prescribed without express permission in each case of the person ordering or prescribing;
- (16) The distribution in commerce of a consumer commodity as defined in this part, if such commodity is contained in a package, or if there is affixed to that commodity a label, which does not conform to the provisions of this part and of regulations promulgated under authority of this part; provided that this prohibition shall not apply to persons engaged in business as wholesale or retail distributors of consumer commodities except to the extent that such persons (1) are engaged in the packaging or labeling of such commodities, or (2) prescribe or specify by any means the manner in which such commodities are packaged or labeled;
- (17) The selling or dispensing in restaurants, soda fountains, drive-ins, lunch wagons, or similar public eating establishments of imitation milk and imitation milk products in place of fresh milk and fresh milk products respectively; of liquid or dry products which simulate cream but do not comply with content requirements for cream in place of cream; of non-dairy frozen desserts which do not comply with content requirements for dairy frozen desserts in place of dairy frozen desserts; and of any other imitation food or one made in semblance of a genuine

- food in place of such genuine food, unless the consumer is notified by either proper labeling or conspicuous posted signs or conspicuous notices on menu cards and advertisements informing of such substitution, to include but not limited to the substitution of imitation milk in milk shake and malted milk drinks;
- (18) Wilfully and falsely representing or using any devices, substances, methods, or treatment as effective in the diagnosis, cure, mitigation, treatment, or alleviation of cancer. The provisions of this paragraph shall not apply to any person who depends exclusively upon prayer for healing in accordance with teachings of a bona fide religious sect, denomination, or organization, nor to a practitioner thereof[.];
- (19) The selling or offering for sale at any food facility which serves or sells over the counter directly to the consumer an unlabeled or un-packaged food that is a confectionery which contains alcohol in excess of one-half of one percent by weight unless the consumer is notified of that fact by either proper labeling or conspicuous posted signs or conspicuous notices on menu cards and advertisements.”

SECTION 2. Section 328-9, Hawaii Revised Statutes, is amended by amending subsection (3) to read as follows:

- “(3) If it is confectionery and:
- (A) Has partially or completely embedded therein any nonnutritive object; provided that this clause shall not apply in the case of any nonnutritive object if, in the judgment of the director of health, as provided by rules, promulgated under this part, the object is of practical functional value to the confectionery product and would not render the product injurious or hazardous to health;
- (B) Bears or contains any alcohol [other than alcohol not in excess of one-half of one per cent by volume derived solely from the use of flavoring extract] in excess of 5 percent by weight; or
- (C) Bears or contains any nonnutritive substance; provided that this clause shall not apply to a safe nonnutritive substance which is in or on confectionery by reason of its use for some practical functional purpose in the manufacture, packaging, or storage of the confectionery if the use of the substance does not promote deception of the consumer or otherwise result in adulteration or misbranding in violation of this part; and provided further that the director, for the purpose of avoiding or resolving uncertainty as to the application of this clause, may issue rules under this part, allowing or prohibiting the use of particular nonnutritive substances;”

SECTION 3. Section 328-10, Hawaii Revised Statutes, is amended to read as follows:

- “§328-10 Foods deemed misbranded when.** A food shall be deemed to be misbranded:
- (1) If its labeling is false or misleading in any particular; or if its labeling or packaging fails to conform with the requirements of sections 328-2 and 328-19.1;
- (2) If it is offered for sale under the name of another food;

- (3) If it is an imitation of another food for which a definition and standard of identity has been prescribed by rules as provided by section 328-8; or if it is an imitation of another food that is not subject to paragraph (7), unless its label bears in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated;
- (4) If its container is so made, formed, or filled as to be misleading;
- (5) If in package form, unless it bears a label containing (A) the name and place of business of the manufacturer, packer, or distributor; (B) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count, which statement shall be separately and accurately stated in a uniform location upon the principal display panel of the label; provided that under subparagraph (B) reasonable variations shall be permitted, and exemptions as to small packages shall be established, by rules adopted by the department of health;
- (6) If any word, statement, or other information required by or under authority of this part to appear on the label or labeling is not prominently placed thereon with such conspicuously (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;
- (7) If it purports to be or is represented as a food for which a definition and standard of identity have been prescribed by rules as provided by section 328-8, unless (A) it conforms to such definition and standard, and (B) its label bears the name of the food specified in the definition and standards, and, insofar as may be required by the rules, the common names of optional ingredients (other than spices, flavoring, and coloring) present in the food;
- (8) If it purports to be or is represented as:
 - (A) A food for which a standard of quality has been prescribed by rules as provided by section 328-8 and its quality falls below such standard unless its label bears, in such manner and form as the rules specify, a statement that it falls below such standard; or
 - (B) A food for which a standard or standards of fill of container have been prescribed by rules as provided by section 328-8, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as the rules specify, a statement that it falls below such standard;
- (9) If it is not subject to paragraph (7), unless its label bears (A) the common or usual name of the food, if any there be, and (B) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each; provided that to the extent that compliance with the requirements of subparagraph (B) is impractical or results in deception or unfair competition, exemptions shall be established by rules prescribed by the department; and, provided further that the requirements of subparagraph (B) shall not apply to food products which are packaged at the direction of purchasers at retail at the time of sale, the ingredients of which are disclosed to the purchasers by other means in accordance with rules prescribed by the department;

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- (10) If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the department determines to be, and by rules prescribes, as necessary in order to fully inform purchasers as to its value for such uses;
- (11) If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided that to the extent that compliance with the requirements of this paragraph is impracticable, exemptions shall be established by rules prescribed by the department; and, provided further that this paragraph and paragraphs (7) and (9) with respect to artificial coloring shall not apply in the case of butter, cheese, or ice cream. The provisions of this paragraph regarding chemical preservatives shall not apply to a pesticide chemical when used in or on a raw agricultural commodity which is the produce of the soil;
- (12) If it is a product intended as an ingredient of another food and, when used according to the directions of the purveyor, will result in the final food product being adulterated or misbranded;
- (13) If it is a color additive unless its packaging and labeling are in conformity with the packaging and labeling requirements applicable to the color additive prescribed under the Federal Act;
- (14) If it is a raw agricultural commodity which is the produce of the soil, bearing or containing a pesticide chemical applied after harvest, unless the shipping container of such commodity bears labeling which declares the presence of such chemical in or on such commodity and the common or usual name and the function of such chemical; provided that no such declaration shall be required while such commodity, having been removed from the shipping container, is being held or displayed for sale in retail out of such container in accordance with the custom of the trade[.];
- (15) If it is a confectionery and contains alcohol in excess of one-half of one percent by weight and that fact does not appear on the label for the food.”

SECTION 4. Section 281-2, Hawaii Revised Statutes, is amended to read as follows:

“§281-2 Excepted articles; penalty. The articles enumerated in this section shall not, after having been manufactured and prepared for the market, be subject to this chapter if they correspond with the following descriptions and limitations, namely:

- (1) Denatured alcohol or denatured rum produced and used as provided by laws and regulations now or hereinafter in force;
- (2) Medicinal preparations manufactured in accordance with formulas prescribed by The Pharmacopoeia of the United States of America or The National Formulary that are unfit for use for beverage purposes;
- (3) Patented, patent and proprietary medicines that are unfit for use for beverage purposes;
- (4) Toilet, medicinal, and antiseptic preparations and solutions, that are unfit for use for beverage purposes;
- (5) Flavoring extracts and syrups that are unfit for use as a beverage or for intoxicating beverage purposes;

- (6) Vinegar and preserved sweet cider[.];
 (7) A food which is a confectionery and contains alcohol of 5 percent or less by weight.

Any person who manufactures any of the articles mentioned in this section may purchase and possess alcohol for that purpose, but the person shall not sell, use, or dispose of any alcohol otherwise than as an ingredient of the articles authorized² to be manufactured therefrom. No more alcohol shall be used in the manufacture of any extract, syrup, or article named in paragraphs (2), (3), and (4) of this section which may be used for beverage purposes than the quantity necessary for extraction or solution of the elements contained therein and for the preservation thereof.

Any person who knowingly sells any of the articles mentioned in paragraphs (1), (2), (3), and (4) of this section for beverage purposes or any extract or syrup for intoxicating beverage purposes or who sells any of the same under circumstances from which the seller might reasonably deduce the intention of the purchaser to use them for such purposes shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 281-102.

Whenever it is believed that any article mentioned in this section does not correspond with the descriptions and limitations herein provided, the liquor commission or any inspector or any prosecuting officer may cause an analysis thereof to be made, and if, upon such analysis, it is found that the article does not so correspond, the person who manufactures or sells the same may be prosecuted as a manufacturer or seller of liquor contrary to this chapter."

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

SECTION 6. This Act shall take effect upon its approval.

(Approved June 17, 1988.)

Notes

1. Prior to amendment, “,” appeared here.
2. So in original.

ACT 403

S.B. NO. 112

A Bill for an Act Relating to Campaign Contributions.

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

SECTION 1. Section 11-204, Hawaii Revised Statutes, is amended to read as follows:

“§11-204 Campaign contributions; limits as to persons.” (a) No person or any other entity shall make contributions to a candidate or candidate’s committee in an aggregate amount greater than \$2,000 in any primary, special primary, special, or general election [in which the candidate or party participates].

(b) A candidate or the candidate’s immediate family in making a contribution to the candidate’s campaign shall be exempt from the above limitation, but shall be limited in the aggregate to \$50,000 in any election year.

(c) A contribution by a dependent minor shall be reported in the name of the minor but shall be counted against the contribution of the minor’s parent or guardian.

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(d) Any candidate or candidate's committee who knowingly receives in the aggregate more than \$2,000 in any primary, special primary, special, or general election from a person, shall be required to return any excess over \$2,000 to such person. If the contributor cannot be found, the excess over the contribution limit shall be deposited with the Hawaii election campaign fund. A candidate or candidate's committee who complies with the provisions of this subsection prior to the initiation of prosecution shall not be subject to any penalty under section 11-228.

(e) All payments made by a person or [political action committee] whose contributions or expenditure activity is financed, maintained or controlled by any corporation, labor organization, association, political party or any other person or committee, including any parent, subsidiary, branch, division, department or local unit of the corporation, labor organization, association, political party or any other person, or by any group of such persons shall be considered to be made by a single person [or committee].

(f) A contribution made by two or more corporations shall be treated as one person when such corporations:

- (1) Share the majority of members of their boards of directors;
- (2) Share two or more corporate officers;
- (3) Are owned or controlled by the same majority shareholder or shareholders; or

(4) Are in a parent-subsidiary relationship.

(g) An individual and any general partnership in which the individual is a partner, or an individual and any corporation in which the individual owns a controlling interest, shall be treated as one person.

(h) No committee which supports or opposes a candidate for public office shall have as officers individuals who serve as officers on any other committee which supports or opposes the same candidate. No such committee shall act in concert with, or solicit or make contributions on behalf of, any other committee."

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

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

(Approved June 17, 1988.)

ACT 404

H.B. NO. 2006

A Bill for an Act Relating to the Establishment of a Statewide Fair Access Commission and Making an Appropriation Therefor.

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

SECTION 1. Purpose. The legislature finds that in a democracy the people are vested with the ultimate decision making power and that governmental activities and decision making must be open to public scrutiny and participation by all citizens. The legislature further finds that both legal and physical barriers to government should be minimized whenever possible.

The legislature recognizes that the miles of ocean which separate our islands inhibit access to government employees, records, activities, and the decision making process for neighbor island residents. Although the removal of this physical barrier is not possible, the legislature finds that the rights of all citizens must be preserved and every effort must be expended to ensure that no residents unreasonably are denied access to their government.

It is the purpose of this Act to establish a statewide fair access commission to review governmental accessibility and to explore the various means to ensure that:

- (1) Neighbor island citizens are not cut off unnecessarily from participation in government; and
- (2) Neighbor island citizens have full access and can participate effectively in the process of government, including timely access to public information and services.

SECTION 2. Statewide fair access commission: membership and scope of work.

(a) There shall be within the office of the governor, for administrative purposes only, a temporary commission entitled the statewide fair access commission. The commission shall consist of seven members to be appointed by the governor. Each island, other than Oahu, shall be represented by at least one member on the commission, and no county shall have more than three residents as members on the commission.

(b) The commission shall review the accessibility of government activities and processes to citizens who live on the neighbor islands. The committee also shall consider various means by which the quantity and quality of access can be improved. During the course of its work, the commission may hold public hearings throughout the State and may call upon the assistance of any government agency in carrying out its mandate. Among other items, the commission shall consider:

- (1) The printing of public hearing notices in neighbor island newspapers;
- (2) The use of toll-free telephone lines from the neighbor islands or the accepting of collect calls by government agencies;
- (3) The maintenance of certain types of files and records in neighbor island offices rather than at central sites on Oahu;
- (4) The routine collection of data on a county basis rather than on a statewide basis;
- (5) The provision of confidential meeting rooms in neighbor island offices; and
- (6) The provision of modern technology to facilitate information access and transmission between government offices and the public on different islands.

(c) The commission members shall serve without compensation but shall be allowed actual and necessary expenses, including travel expenses, incurred in the performance of their duties.

(d) The commission shall report its findings to the 1989 session of the Legislature and shall cease operations on June 30, 1989."

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 1988-89 to carry out the purposes of this Act, including the hiring of staff not subject to chapters 76 and 77. The sum appropriated shall be expended by the office of the governor for the purposes of this Act. Any unexpended or unencumbered balance of any appropriation made by this Act as of the close of business on June 30, 1989, shall lapse into the general fund.

SECTION 4. This Act shall take effect on July 1, 1988.

(Approved June 17, 1988.)

PROPOSED CONSTITUTIONAL AMENDMENTS

H.B. NO. 2688

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 propose an amendment to Article X, section 2, of the Constitution of the State of Hawaii to provide for the selection of a public high school student by the Hawaii State Student Council to serve as a non-voting member on the board of education.

SECTION 2. Article X, section 2, of the Constitution of the State of Hawaii is amended to read as follows:

"BOARD OF EDUCATION"

Section 2. There shall be a board of education composed of members who shall be elected in a nonpartisan manner by qualified voters, as provided by law, from two at-large school board districts. The first school board district shall be comprised of the island of Oahu and all other islands not specifically enumerated. The second school board district shall be comprised of the islands of Hawaii, Maui, Lanai, Molokai, Kahoolawe, Kauai and Niihau. Each at-large school board district shall be divided into departmental school districts, as may be provided by law. There shall be at least one member residing in each departmental school district. The Hawaii State Student Council shall select a public high school student to serve as a non-voting member on the board of education."

SECTION 3. The question to be printed on the ballot shall read as follows:

"Shall there be one public high student selected by the Hawaii State Student Council to serve as a non-voting member on the board of education?"

SECTION 4. Constitutional material to be repealed is bracketed.¹ 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.

Note

1. No bracketed material.

H.B. NO. 3164

A Bill for an Act Proposing an Amendment to Article IV, Sections 4, 5 and 6 of the Constitution of the State of Hawaii to Repeal Minimum Representation for Basic Island Units and to Change the Basis Used for Reapportionment.

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

SECTION 1. The purpose of this Act is to propose amendments to Article IV, sections 4 and 6 of the Constitution of the State of Hawaii to delete requirements of questionable legal validity and to repeal section 5 of Article IV.

PROPOSED CONSTITUTIONAL AMENDMENTS

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

"APPORTIONMENT [AMONG BASIC ISLAND UNITS]

Section 4. The commission shall reapportion on the basis of population. Where possible, the commission shall allocate the total number of members of each house of the state legislature being reapportioned among the four basic island units, namely: (1) the island of Hawaii, (2) the islands of Maui, Lanai, Molokai and Kahoolawe, (3) the island of Oahu and all other islands not specifically enumerated, and (4) the islands of Kauai and Niihau[, on the basis of the number of voters registered in the last preceding general election in each of the basic island units and]; and computed by the method known as the method of equal proportions; except that where possible no basic island unit shall receive less than one member in each house.

Upon the determination of the total number of members of each house of the state legislature to which each basic island unit is entitled, the commission shall apportion the members among the districts therein and shall redraw district lines where necessary. In effecting such redistricting, the commission shall be guided by the following criteria:

1. Where possible no district shall extend beyond the boundaries of any basic island unit.
2. No district shall be so drawn as to unduly favor a person or political faction.
3. Except in the case of districts encompassing more than one island, districts shall be contiguous.
4. Insofar as practicable, districts shall be compact.
5. Where possible, district lines shall follow permanent and easily recognized features, such as streets, streams and clear geographical features, and where possible shall coincide with census tract boundaries.
6. Where practicable, representative districts shall be wholly included within senatorial districts.
7. Not more than four members shall be elected from any district.
8. Where practicable, submergence of an area in a larger district wherein substantial different socio-economic interests predominate shall be avoided."

SECTION 3. Article IV, Section 5 of the Hawaii State constitution is repealed.

[MINIMUM REPRESENTATION FOR BASIC ISLAND UNITS]

Section 5. The representation of any basic island unit initially allocated less than a minimum of two senators and three representatives shall be augmented by allocating thereto the number of senators or representatives necessary to attain such minimum which number, notwithstanding the provisions of Section 2 and 3 of Article III shall be added to the membership of the appropriate body until the next reapportionment. The senators or representatives of any basic island unit so augmented shall exercise a fractional vote wherein the numerator is the number initially allocated and the denominator is the minimum above specified."]

SECTION 4.¹ Article IV, Section 6 of the Hawaii Constitution is repealed.

PROPOSED CONSTITUTIONAL AMENDMENTS

[APPORTIONMENT WITHIN BASIC ISLAND UNITS]

Section 6. Upon the determination of the total number of members of each house of the state legislature to which each basic island is entitled, the commission shall apportion the members among the districts therein and shall redraw district lines where necessary in such manner that for each house the average number of registered voters per member in each district is as nearly equal to the average for the basic island unit as practicable.

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

1. No district shall extend beyond the boundaries of any basic island unit.
2. No district shall be so drawn as to unduly favor a person or political faction.
3. Except in the case of districts encompassing more than one island, districts shall be contiguous.
4. Insofar as practicable, districts shall be compact.
5. Where possible, district lines shall follow permanent and easily recognized features, such as streets, streams and clear geographical features, and, when practicable, shall coincide with census tract boundaries.
6. Where practicable, representative districts shall be wholly included within senatorial districts.
7. Not more than four members shall be elected from any district.
8. Where practicable, submergence of an area in a larger district wherein substantially different socio-economic interests predominate shall be avoided.”]

SECTION 5.¹ The question to be printed on the ballot shall be as follows:

“Shall the requirements of minimum representation among basic island units be removed and the basis for reapportionment be changed from a registered voter base to a population base?”

SECTION 6.¹ Constitutional material to be repealed is bracketed.

SECTION 7.¹ Constitutional material to be added is underlined.

SECTION 8.¹ This Act shall take effect upon compliance with Article XVII, section 3, of the Constitution of the State of Hawaii.

Note

1. Section designations renumbered.

S.B. NO. 2021

A Bill for an Act Proposing an Amendment to Article XI of the Hawaii Constitution to Add a New Section Relating to Hawaii's Sovereign Rights.

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 XI of the Constitution of the State of Hawaii to add a new section relating to Hawaii's sovereign rights in its exclusive economic zone.

SECTION 2. Article XI of the Constitution of the State of Hawaii is amended by adding a new section to be appropriately designated and to read as follows:

PROPOSED CONSTITUTIONAL AMENDMENTS

“EXCLUSIVE ECONOMIC ZONE

Section . The State of Hawaii asserts and reserves its rights and interest in its exclusive economic zone for the purpose of exploring, exploiting, conserving and managing natural resources, both living and nonliving, of the seabed and subsoil, and superadjacent waters.”

SECTION 3. The question to be printed on the ballot shall be as follows:

“Shall the State of Hawaii assert and reserve its rights and interest in its exclusive economic zone for the purpose of exploring, exploiting, conserving and managing natural resources, both living and nonliving, of the seabed and subsoil, and superadjacent waters?”

SECTION 4. New constitutional material is underscored.¹

SECTION 5. This amendment shall take effect upon compliance with Article XVII, section 3, of the Constitution of the State of Hawaii.

Note

1. Edited pursuant to HRS §23G-16.5.

S.B. NO. 2718

A Bill for an Act Proposing an Amendment to Article II, Section 1, of the Hawaii Constitution, to Change the Age Qualification for Voting.

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

SECTION 1. The purpose of this Act is to propose an amendment of Article II, section 1, of the Constitution of the State of Hawaii to change the age qualification for voting to include all those who shall have not attained the age of eighteen on or before the day of the election, but who will attain that age on or before December 31 of the year in which the election is held.

SECTION 2. Article II, section 1, of the Constitution of the State of Hawaii is amended to read as follows:

“QUALIFICATIONS

Section 1. Every citizen of the United States who shall have attained the age of eighteen years[,] on or before December 31 of the year in which the election is held, have been a resident of this State not less than one year next preceding the election and be a voter registered as provided by law, shall be qualified to vote in any state or local election.”

SECTION 3. The question to be printed on the ballot shall be as follows:

“Shall the age qualification for voting in the State of Hawaii be changed to include not only those who shall have attained the age of eighteen years on or before the date of the election, but also those who shall have attained the age of eighteen years on or before December 31 of the year in which the election is held?”

SECTION 4. Constitutional material to be repealed is bracketed. 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.

**Session Laws of Hawaii
Passed By The
Fourteenth State Legislature
Special Session
1988**

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H.B. NO. 2032

A Bill for an Act Relating to Telecommunications and Information.

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

SECTION 1. Findings and purpose. The Legislature finds that advances in telecommunications and information technology present significant opportunities for the State to develop and diversify its economy, establish an information industry, and promote access to data.

Fiber optic cables, connecting Hawaii with the mainland United States and Japan, and new communications satellites are expected to dramatically increase the volume of information transmitted across the Pacific. As transmission capacity increases, costs are reduced. The ability to access and process information which can be used by businesses, governmental agencies, educational institutions, and individuals will contribute to the State's economic vitality. Telecommunications presents a means of transmitting information quickly and inexpensively between Hawaii and all parts of the Pacific Basin and the world, thereby creating an opportunity to develop a new industry.

The establishment of an information network would enable public and private information providers with a single distribution point for their information and information-related services. It will require an active involvement by government to stimulate the creation of information industries in Hawaii. It will also require the long-term establishment of a public corporation to promote the development of information industries. Such an industry, in and of itself, would serve to expand and diversify Hawaii's economy. This new industry would also support and encourage the development of other industries, especially in Hawaii, that depend upon information for their operations.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

“CHAPTER HAWAII TELECOMMUNICATIONS AND INFORMATION INDUSTRIES ACT”

PART I. HAWAII INFORMATION NETWORK CORPORATION

§ -1 Definitions. As used in this chapter, unless the context otherwise requires:

“Board” means the board of directors of the Hawaii Information network corporation.

“Corporation” means the Hawaii information network corporation, also known as Hawaii INC, established under this chapter.

“Council” means the information industry advisory council as established under this chapter.

“Hawaii business” means any person, agency, partnership, corporation, or other business entity with its principal place of business or headquarters located in the State of Hawaii.

“Information network” means the complex of telecommunications and information processing hardware and software and human resources that enables users with terminals, microcomputers, or other systems to access information systems.

“Information industry” means any industry designed to derive economic benefit or to improve the public good from the flow of information, through the brokerage, creation, transmission, reception, or processing of information.

“Responsible agency” means the government agency providing information to the corporation.

§ -2 Establishment of Hawaii INC; purpose. There is established the Hawaii information network corporation, also known as Hawaii INC, which shall be a body corporate and public instrumentality of the State. The corporation shall be placed with the department of budget and finance for administrative purposes only.

The purposes of this corporation shall be to encourage the development and growth of the information industry in Hawaii in accordance with sound business principles and practices. The corporation shall establish a program to enable private information service providers to attach to the information network to enable users to access information. The corporation shall also provide access to state information systems as shall be made available to the corporation through the department of budget and finance. The corporation may also develop applications to supply private information obtained from private sources of data base providers on its network.

The operation of the corporation shall be consistent with the general functions and authority for telecommunication and information development of state agencies which have the responsibility of (i) establishing standards, policies and procedures for State data bases and networks, (ii) establishing, operating, and managing State information networks, and (iii) developing and managing statewide digital communications infrastructure. The corporation shall not act in conflict with or in preemption of the programs of any state agency relating to the processing of distributed information and the management of information resources under the network of such state agency.

§ -3 Board of directors; composition. (a) The affairs of the corporation shall be under the general management and control of the board. The board shall consist of nine voting members. Six members shall be appointed by the governor for staggered terms as provided in section 26-34. These members shall be appointed to assure a broad and balanced representation of education, business, and other

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pertinent disciplines and professions, including, but not limited to, information processing technology, telecommunications, finance, commerce and trade, corporate management, library and information science, and marketing.

(b) The director of the department of business and economic development, the president of the University of Hawaii, and the director of the department of budget and finance, or their designated representatives, shall be ex officio voting members of the board. The director of the department of budget and finance shall serve as a chairperson of the board until such time as the board elects a chairperson from its membership. The board shall elect such other officers as it deems necessary.

(c) The members of the board shall serve without pay but shall be reimbursed for their actual and necessary expenses, including travel expenses incurred in carrying out their duties.

§ -4 Powers and duties of the board. The powers and duties of the board under this chapter shall be exercised within the intent and scope of the purposes set forth in section -2. In addition to any other powers and duties granted by this chapter, the board shall have the following powers and duties:

- (1) To manage access and promote development of private information services and systems for the information network;
- (2) To support, promote, and encourage the development of an information industry in the State of Hawaii through the support of private and public sector initiatives to increase business opportunities and employment in information industries in the State;
- (3) To encourage public and private efforts to develop information resources;
- (4) To explore and recommend the legislation and regulations relevant to the development of a business climate favorable to the information industry, including, but not limited to, telecommunications and intellectual property rights;
- (5) To sue and be sued;
- (6) To sell, lease, rent, hold, maintain, use and operate any property, real, personal, or mixed, tangible or intangible, in furtherance of the objectives of this chapter;
- (7) To enter into and perform such contract, leases, cooperative agreements, or other transactions with any private person, firm, partnership, association, company, corporation, or government entity, as it may be necessary in the conduct of its business and on such terms as it may deem appropriate; provided that the corporation shall not obligate any funds of the State except such as have been appropriated to it;
- (8) To engage the services of consultants on a contractual basis for rendering professional advice and technical assistance;
- (9) To apply for, take out, receive by purchase or gift, hold, administer, and dispose of copyrights, patent rights, licenses, assignments of inventions, discoveries, processes, and other property, rights or interests therein, and the income thereof, absolutely or subject to such conditions or trusts as may be attached thereto or be imposed thereon, and to obligate itself to perform and execute any and all such conditions or trusts on behalf of the State of Hawaii;
- (10) To stimulate and promote cooperative research projects and activities; and
- (11) To do all things necessary and proper to carry out the purposes of this chapter.

§ -5 Corporation shall be exempt from certain state laws. In order to promote cooperative projects with private firms or persons, the corporation shall

be granted flexibility in hiring its personnel and in handling and shall not be subject to the following state laws:

- (1) Sections 36-27 and 36-30, relating to special fund reimbursements to the state general fund;
- (2) Chapter 76, relating to civil service;
- (3) Chapter 77, relating to compensation; and
- (4) Section 78-1 relating to public employment.

§ -6 Employees of the corporation. The board may appoint an executive director and such other employees as may be necessary in administering the affairs of the corporation. The salary shall not exceed that of a first deputy under Section 26-53. It shall set the employees' duties, responsibilities, salaries, holidays, vacations, leaves, hours of work, and working conditions. It may grant such other benefits to its employees as it deems necessary. Employees of the corporation shall not be entitled to any benefits conferred under chapter 76 relating to civil service, chapter 77 relating to compensation, chapters 78 to 83 relating to public employment, chapter 88 relating to pension and retirement system, and chapter 89 relating to collective bargaining.

§ -7 Hawaii information network special fund. (a) Notwithstanding any other law to the contrary, the corporation shall be authorized to set up a special account for depositing moneys received from either public or private contracts, or from private or public grants, awards, or gifts.

(b) The following moneys shall be deposited into the special fund:

- (1) Appropriations by the legislature to the special fund;
- (2) Proceeds derived from the operations of the corporation; and
- (3) Gifts, donations, and grants from public agencies and private persons.

(c) The corporation may expend moneys from the fund to carry out the powers and duties specified in section -3.

§ -8 Annual report. The corporation shall submit a complete and detailed report of its activities to the governor and the legislature at least twenty days prior to the convening of each regular legislative session.

§ -9 Patents, copyrights, and other rights. Any patents, copyrights, inventions, discoveries, or other rights arising from corporation activities shall belong to the State of Hawaii and be subject to such policies, rules, or regulations as the board may adopt.

§ -10 Charges and term for services. (a) Access and information use fees and other charges by the corporation shall be adopted in accordance with Chapter 91.

(b) Information and access fee and charges for public information provided through the information network shall be established by the corporation by agreement with the department of budget and finance and shall be adopted in accordance with chapter 91.

(c) The term for which services are to be rendered shall be by agreement between the corporation and the responsible agency or other data base provider.

§ -11 Data dissemination. The corporation shall be the agency to manage access by users to private information services pursuant to agreement between the corporation and the private information provider.

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PART II. INFORMATION INDUSTRY ADVISORY COUNCIL

§ -12 Information industry advisory council. The board may establish one or more information industry advisory councils to serve from time to time in an advisory capacity to the corporation. Each such council shall be selected by the board of directors. Members of a council shall designate its chairperson.

§ -13 Council, compensation. Members shall serve without compensation but shall be reimbursed for expenses, including travel expenses necessary for the performance of their duties.

§ -14 Legislative review. The legislature shall review the affairs of the corporation after three years have elapsed from the date of the corporation's establishment. The legislature shall consider any reports submitted by any information industry advisory council. The legislature shall evaluate the appropriate future business entity and administrative affiliation of the corporation in the 1992 regular session."

SECTION 3. Chapter 226, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§226- Objectives and policies for the economy-information industry.

(a) Planning for the State's economy with regard to the information industry shall be directed toward the achievement of the objective of positioning Hawaii as the leading dealer in information businesses and services in the Pacific Rim.

(b) To achieve the information industry objective, it shall be the policy of this State to:

- (1) Encourage the continued development and expansion of the telecommunications infrastructure serving Hawaii to accommodate future growth in the information industry;
- (2) Facilitate the development of new business and service ventures in the information industry which will provide employment opportunities for the people of Hawaii;
- (3) Encourage greater cooperation between the public and private sectors in developing and maintaining a well-designed information industry;
- (4) 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) Provide opportunities for Hawaii's people to obtain job training and education that will allow for upward mobility within the information industry;
- (6) Foster a recognition of the contribution of the information industry to Hawaii's economy; and
- (7) Assist in the promotion of Hawaii as a broker, creator, and processor of information in the Pacific."

SECTION 4. Section 26-8, Hawaii Revised Statutes, is amended to read as follows:

"§26-8 Department of budget and finance. The department of budget and finance shall be headed by a single executive to be known as the director of finance.

The department shall undertake the preparation and execution of the executive budget of the state government; conduct a systematic and continuous review of the finances, organization, and methods of each department of the State to assist

each department in achieving the most effective expenditure of all public funds and to determine that such expenditures are in accordance with the budget laws and controls in force; have custody of state funds and be responsible for the safekeeping, management, investment, and disbursement thereof; and administer state debts.

The department of budget and finance shall develop and operate an information network in conjunction with its overall plans for establishing a communication backbone for state government. The state communication system shall be established to facilitate implementation of the state's distributed information processing and information resource management plans; improve data, voice, and video communications in state government; provide a means for connectivity among the state, university, and county computer systems; and provide a long-term means for public access¹ to public information.

The functions and authority heretofore exercised by the bureau of the budget (except for insurance management, surplus property management, and central purchasing transferred to the department of accounting and general services) and the funds custody, cash management, debt management, and administering of veterans loan functions of the treasurer as heretofore constituted are transferred to the department of budget and finance established by this chapter.

The 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 5. Section 226-10, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) To achieve the potential growth activity objective, it shall be the policy of this State to:

- (1) Facilitate investment and employment in economic activities that have the potential for growth such as diversified agriculture, aquaculture, apparel and textile manufacturing, film and television production, and energy and marine-related industries.
- (2) Expand Hawaii's capacity to attract and service international programs and activities that generate employment for Hawaii's people.
- (3) Enhance and promote Hawaii's role as a center for international relations, trade, finance, services, technology, education, culture, and the arts.
- (4) Accelerate research and development of new energy-related industries based on wind, solar, ocean, and underground resources and solid waste.
- (5) Promote Hawaii's geographic, environmental, social, and technological advantages to attract new economic activities into the State.
- (6) Provide public incentives and encourage private initiative to attract new industries that best support Hawaii's social, economic, physical, and environmental objectives.
- (7) Increase research and the development of ocean-related economic activities such as mining, food production, and scientific research.
- (8) 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.

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- (9) Foster a broader public recognition and understanding of the potential benefits of new, growth-oriented industry in Hawaii.
- (10) Increase research and development of businesses and services in the telecommunications and information industries.”

SECTION 6. Section 226-103, Hawaii Revised Statutes, is amended to read as follows:

“§226-103 Economic priority guidelines. (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.
- (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 building and development permit and review process, and eliminate or consolidate other burdensome or duplicative governmental requirements imposed on business, where 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.
 - (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.
- (b) Priority guidelines to promote the economic health and quality of the visitor industry:
- (1) Promote visitor satisfaction by fostering an environment which enhances the Aloha Spirit and minimizes inconveniences to Hawaii's residents and visitors.
 - (2) Encourage the development and maintenance of well-designed, adequately serviced hotels and resort destination areas which are sensitive to neighboring communities and activities and which provide for adequate shoreline setbacks and beach access.
 - (3) Support appropriate capital improvements to enhance the quality of existing resort destination areas and provide incentives to encourage investment in upgrading, repair, and maintenance of visitor facilities.
 - (4) Encourage visitor industry practices and activities which respect, preserve, and enhance Hawaii's significant natural, scenic, historic, and cultural resources.
 - (5) Develop and maintain career opportunities in the visitor industry for Hawaii's people, with emphasis on managerial positions.
 - (6) Support and coordinate tourism promotion abroad to enhance Hawaii's share of existing and potential visitor markets.
 - (7) Maintain and encourage a more favorable resort investment climate consistent with the objectives of this chapter.
 - (8) Support law enforcement activities that provide a safer environment for both visitors and residents alike.
 - (9) Coordinate visitor industry activities and promotions to business visitors through the state network of advanced data communication techniques.
- (c) Priority guidelines to promote the continued viability of the sugar and pineapple industries:
- (1) Provide adequate agricultural lands to support the economic viability of the sugar and pineapple industries.
 - (2) Continue efforts to maintain federal support to provide stable sugar prices high enough to allow profitable operations in Hawaii.
 - (3) Support research and development, as appropriate, to improve the quality and production of sugar and pineapple crops.
- (d) Priority guidelines to promote the growth and development of diversified agriculture and aquaculture:
- (1) Identify, conserve, and protect agricultural¹ lands of importance and initiate affirmative and comprehensive programs to promote economically productive agricultural and aquacultural uses of such lands.
 - (2) Assist in providing adequate, reasonably priced water for agricultural activities.
 - (3) Encourage public and private investment to increase water supply and to improve transmission, storage, and irrigation facilities in support of diversified agriculture and aquaculture.

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- (4) Assist in the formation and operation of production and marketing associations and cooperatives to reduce production and marketing costs.
 - (5) Encourage and assist with the development of a waterborne and air-borne freight and cargo system capable of meeting the needs of Hawaii's agricultural community.
 - (6) Seek favorable freight rates for Hawaii's agricultural products from interisland and overseas transportation operators.
 - (7) Encourage the development and expansion of agricultural and aquacultural activities which offer long-term economic growth potential and employment opportunities.
 - (8) Continue the development of agricultural parks and other programs to assist small independent farmers in securing agricultural lands and loans.
 - (9) Require agricultural uses in agricultural subdivisions and closely monitor the uses in these subdivisions.
- (e) Priority guidelines for water use and development:
- (1) Maintain and improve water conservation programs to reduce the overall water consumption rate.
 - (2) Encourage the improvement of irrigation technology and promote the use of nonpotable water for agricultural and landscaping purposes.
 - (3) Increase the support for research and development of economically feasible alternative water sources.
 - (4) Explore alternative funding sources and approaches to support future water development programs and water system improvements.
- (f) Priority guidelines for energy use and development:
- (1) Encourage the development, demonstration, and commercialization of renewable energy sources.
 - (2) Initiate, maintain, and improve energy conservation programs aimed at reducing energy waste and increasing public awareness of the need to conserve energy.
 - (3) Provide incentives to encourage the use of energy conserving technology in residential, industrial, and other buildings.
 - (4) Encourage the development and use of energy conserving and cost-efficient transportation systems.
- (g) Priority guidelines to promote the development of the information industry:
- (1) Establish an information network that will serve as the catalyst for establishing a viable information industry 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 development of new information systems and peripherals, 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.

SECTION 7. The department of budget and finance shall coordinate state efforts to provide access to public records through communication and information technologies and manage the public access and use of the information network. However, the department shall ensure that the information network does not result in increased charges to the public for general access to public data bases, such as the libraries or infringe upon the business activities of telecommunications service providers and that the information network reaches all neighbor islands.

SECTION 8. The department of budget and finance shall report to the legislature twenty days prior to the convening of the 1989 regular session on the plan of implementation for the information network. The report shall include, but not be limited to:

- (1) The status of the current implementation and development of the information network to be established under this Act;
- (2) An assessment of the efficiency of access to those data; and
- (3) The costs related to the implementation of the design and operation of the information network.

The department of budget and finance and Hawaii information network corporation shall further develop a coordinated plan for the integration of private and public information resources.

SECTION 9. The Hawaii information network corporation shall report to the legislature twenty days prior to the convening of the 1989 regular session on the future of information industries. The report shall include, but not be limited to:

- (1) The definition and resolution of basic legal issues regarding information transmittal and access, and other related issues;
- (2) An assessment both within and without the State of the demand and economic market for Hawaii public data in selected areas;
- (3) An identification of possible information industry-related businesses to achieve the purposes of the Act; and
- (4) The projected employment opportunities by types of positions should the State implement an information networking program to attract the information industry to Hawaii.

SECTION 10. The department of business and economic development shall hold a conference involving interested members of the community and information industries in January, 1989, or at the convening of the 1989 legislative session. The purpose of the conference shall be:

- (1) To educate businesses and the general public regarding the availability of data and opportunities in the information industry;
- (2) To explore basic legal issues regarding the information industry;
- (3) To review the studies and reports conducted by the department of budget and finance and the Hawaii information network corporation; and
- (4) To receive a progress report on the University of Hawaii libraries' linkages to local, regional, national and international data bases; and

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(5) To provide a forum for discussion of other issues pertinent to the development of an information industry in Hawaii.

SECTION 11. There is appropriated out of the general revenues of the State of Hawaii the sum of \$700,000 for fiscal year 1988-89 for the operations of the Hawaii information network corporation; and for the assessment of economic demand, identification of information industry-related businesses, employment projections, and other studies related to the purposes of this Act, provided that the unexpended and unencumbered balance of the sums appropriated shall not lapse until the close of business on June 30, 1989. The sum appropriated shall be expended by the department of budget and finance.

SECTION 12. There is appropriated out of the general revenues of the State of Hawaii the sum of \$250,000 for fiscal year 1988-89 for reports and studies related to the development and operation of the telecommunications infrastructure for the information network, and to carry out the purposes of this Act, provided that the unexpended and unencumbered balance of the sums appropriated shall not lapse until the close of business on June 30, 1989. The sum appropriated shall be expended by the department of budget and finance.

SECTION 13. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000 for fiscal year 1988-1989 for the purpose of funding a conference pursuant to section 9. The sum appropriated shall be expended by the department of business and economic development.

SECTION 14. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,950,000 for fiscal year 1988-89 which shall be deposited into the discoveries and inventions revolving fund to build a University of Hawaii information network; to create the capacity to access information resources in other research libraries; to expand high speed communication links among University libraries and computing centers; to link University libraries to local, regional, national, and international data bases; to convert University libraries' card catalogs and information files to machine readable form; and to develop the necessary mechanisms to package and sell University controlled data and data bases. The sum shall be expended by the department of budget and finance.

SECTION 15. New statutory material is underscored.²

SECTION 16. This Act shall take effect upon approval.

(Approved June 6, 1988.)

Notes

1. So in original.

2. Edited pursuant to HRS §23G-16.5.

ACT 2

S.B. NO. 3264

A Bill for an Act Relating to Capital Improvement Projects.

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

PART I. GENERAL IMPROVEMENTS

SECTION 1. This act shall be known and may be cited as the General Improvements Act of 1988.

SECTION 2. The following sums or so much thereof as shall be sufficient to finance the projects listed in this Act, are appropriated or authorized, as the case may be for fiscal year 1988-89, to be expended by the department of accounting and general services, unless otherwise specified, out of moneys in the treasury received from general funds.

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)				
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F			
ECONOMIC DEVELOPMENT								
BED102 - COMMERCE AND INDUSTRY								
1.	SP0202	MAINSTREET HAWAII						
LEASE, PURCHASE, REPAIR AND RENOVATE, REFURBISH PALACE THEATRE, A MAINSTREET PROJECT. (GRANT-IN-AID)								
	PLANS			25				
	DESIGN			25				
	CONSTRUCTION			200				
	EQUIPMENT			50				
	TOTAL FUNDING	BED	A	300	A			
2.	SP0102	RECREATIONAL SPORTS COMPLEX, WEST HAWAII						
AN UPDATED MASTER PLAN FOR RECREATIONAL SPORTS COMPLEX AT KONA SHORELINE PARK (A.K.A. OLD AIRPORT PARK).								
	PLANS			125				
	TOTAL FUNDING	BED	A	125	A			
AGR131 - ANIMAL QUARANTINE								
3.	HP2501	ANIMAL INDUSTRY DIVISION, DEPARTMENT OF AGRICULTURE, OAHU						
PLANS, DESIGN AND CONSTRUCTION FOR RENOVATION OF HALAWA VALLEY QUARANTINE COTTAGES.								
	PLANS			1				
	DESIGN			5				
	CONSTRUCTION			69				
	TOTAL FUNDING	AGS	A	75	A			
LNR141 - WATER DEVELOPMENT & IRRIGATION SERVICES								
4.	SP0309	HAKALAU WATER PROJECT						
CONSTRUCTION OF THE HAKALAU WATER SYSTEM								
	CONSTRUCTION			150				
	TOTAL FUNDING	LNR	A	150	A			
5.	HP1003	MOLOKAI IRRIGATION SYSTEM, HOOLEHUA, MOLOKAI						
CONSTRUCTION AND EQUIPMENT (LATERALS, RISERS, AND VALVES) FOR MOLOKAI IRRIGATION SYSTEM LOTS								
	CONSTRUCTION			5				
	EQUIPMENT			15				
	TOTAL FUNDING	LNR	A	20	A			
EMPLOYMENT								
SOC802 - VOCATIONAL REHABILITATION								
1.	SP2504	REHABILITATION UNLIMITED, KAUAI						

ACT 2**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		CAPITAL IMPROVEMENTS TO BUILDING AND FACILITY'S PARKING AREA. (GRANT-IN-AID)			
		CONSTRUCTION			44
		TOTAL FUNDING	AGS	A	44 A
TRANSPORTATION FACILITIES					
TRN341 - KAUNAKAKAI HARBOR FACILITIES AND SERVICES					
1.	JP0510	KAUNAKAKAI HARBOR WHARF IMPROVEMENTS, MOLOKAI			
		STRENGTHEN THE DECK AND IMPROVE THE WHARF AT KAUNAKAKAI HARBOR TO FACILITATE HEAVY LOADS			
		DESIGN			2
		CONSTRUCTION			25
		TOTAL FUNDING	TRN	A	27 A
TRN395 - WATER TRANSPORTATION FAC & SVCS SUPPORT					
2.	SP1107	MECHANICAL HOIST FOR MILOLII PIER, HAWAII			
		PURCHASE AND INSTALLATION FOR MECHANICAL HOIST FOR HANDLING FISH AT MILOLII PIER, SOUTH KONA, HAWAII			
		DESIGN			1
		CONSTRUCTION			9
		EQUIPMENT			15
		TOTAL FUNDING	TRN	A	25 A
TRN501 - OAHU HIGHWAYS AND SERVICES					
3.	HP3003	ALA MOANA BLVD. IMPROVEMENTS, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR LANDSCAPING AND INSTALLATION OF SPRINKLER SYSTEM IN MEDIAL STRIP OF ALA MOANA BLVD. FROM INTERSECTION OF EDNA ROAD TO ALA MOANA BLVD.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			15
		EQUIPMENT			3
		TOTAL FUNDING	TRN	A	20 A
4.	SP0601	FEASIBILITY STUDY FOR CONTRA FLOW OPERATION ON MOANALUA FREEWAY AND/OR H1			
		STUDY ON THE FEASIBILITY OF CONTRA FLOW OPERATION ON MOANALUA FREEWAY AND/OR H1, WITH POSSIBLE FOCUSSES ON THE PEARL CITY-AIEA CORRIDOR AND THE VICINITY BETWEEN MIDDLE STREET AND WAIWAIA INTERCHANGE.			
		PLANS			40
		TOTAL FUNDING	TRN	A	40 A
5.	HP4613	FORT WEAVER ROAD, EWA, OAHU			
		DESIGN AND CONSTRUCT BUS BAYS			

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		DESIGN			2
		CONSTRUCTION			18
		TOTAL FUNDING	TRN	A	20 A
6.	HP1504	SIDEWALK FROM SHOPPING CENTER TO HAUULA ELEMENTARY SCHOOL, OAHU			
		PLAN AND CONSTRUCTION OF SIDEWALK.			
		PLANS			8
		CONSTRUCTION			72
		TOTAL FUNDING	TRN	A	80 A
7.	HP4001	INSTALLATION OF CROSSWALK SIGNAL LIGHTS AT JARRETT WHITE ROAD AND MAHIOLE STREET			
		PLANS, DESIGN AND CONSTRUCTION OF CROSSWALK SIGNAL LIGHTS.			
		PLANS			5
		DESIGN			5
		CONSTRUCTION			15
		TOTAL FUNDING	TRN	A	25 A
8.	JP2141	STOPLIGHT AT KAHUAPAANI AND MANANAI PLACE			
		DESIGN AND CONSTRUCTION OF STOP LIGHT AT KAHUAPAANI STREET AND MANANAI PLACE WITH A RESIDUAL GREEN SIGNAL FOR KAHUAPAANI STREET UNTIL CARS COME FROM MANANAI PLACE OR ALA ALII STREETS			
		DESIGN			20
		CONSTRUCTION			130
		TOTAL FUNDING	TRN	A	150 A
9.	SP1212	KALANIANAOLE HIGHWAY, OAHU			
		PLANS, DESIGN, AND CONSTRUCTION OF AN OVERPASS FROM H-1 EAST INTO AINAKOA AVENUE.			
		PLANS			8
		TOTAL FUNDING	TRN	A	8 A
10.	SP0702	KAMEHAMEHA HIGHWAY, OAHU			
		DESIGN AND CONSTRUCT A 4-FOOT WIDE ASPHALT CONCRETE WALKWAY FROM PUALALEA STREET, KAHUKU, TO KAHUKU HIGH SCHOOL			
		DESIGN			5
		CONSTRUCTION			45
		TOTAL FUNDING	TRN	A	50 A
11.	HP1301	INTERSECTION OF KAMEHAMEHA HIGHWAY AND WILIKINA DRIVE, WAHIWA, OAHU			
		CONSTRUCTION TO INCREASE DRAINAGE CAPACITY AT INTERSECTION			
		CONSTRUCTION			10
		TOTAL FUNDING	TRN	A	10 A
12.	HP1202	SIDEWALK ON KAMEHAMEHA HIGHWAY, MILILANI			
		DESIGN AND CONSTRUCT SIDEWALK ON EAST SIDE OF			

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CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		KAMEHAMEHA HIGHWAY, MILILANI, BETWEEN KUAHELANI AVENUE AND KIPAPA STREET			
		DESIGN			5
		CONSTRUCTION			54
		TOTAL FUNDING	TRN	A	59 A
13.	HP1203	SIDEWALK/FENCE ON KAMEHAMEHA HIGHWAY, MILILANI			
		DESIGN AND CONSTRUCT EXTENSION OF SIDEWALK FROM WAIHAU STREET TO WAIKALANI DRIVE, AND EXTEND EXISTING CHAIN LINK FENCE ON KAMEHAMEHA HIGHWAY TO WAIKALANI DRIVE			
		DESIGN			6
		CONSTRUCTION			54
		TOTAL FUNDING	TRN	A	60 A
14.	HP1201	TRAFFIC LIGHTS AT KAMEHAMEHA HIGHWAY, MILILANI			
		DESIGN AND CONSTRUCT UPGRADING OF EXISTING TRAFFIC SIGNALS AT KUAHELANI AVENUE AND KAMEHAMEHA HIGHWAY, MILILANI			
		DESIGN			10
		CONSTRUCTION			100
		TOTAL FUNDING	TRN	A	110 A
15.	JP1836	KUAKINI STREET EXTENSION PROJECT			
		DESIGN AND CONSTRUCTION OF THE KUAKINI STREET EXTENSION PROJECT AT LANAKILA AVENUE			
		DESIGN			20
		CONSTRUCTION			214
		TOTAL FUNDING	TRN	A	234 A
16.	SP0812	MODIFIED CONTRA FLOW LANE ON LIKELIKE HIGHWAY			
		PLANS AND DESIGN OF CONTRA FLOW LANES ON LIKELIKE HIGHWAY.			
		PLANS			10
		DESIGN			40
		TOTAL FUNDING	TRN	A	50 A
17.	SP0704	STATE HIGHWAYS, OAHU			
		INSTALLATION OF EMERGENCY TELEPHONES AT VARIOUS POINTS ALONG STATE HIGHWAYS ON OAHU			
		CONSTRUCTION			43
		TOTAL FUNDING	TRN	A	43 A
18.	SP0608	TRAFFIC SIGNAL SYSTEM			
		INSTALLATION OF TRAFFIC CONTROL LIGHTS AT THE INTERSECTION OF KAMEHAMEHA HIGHWAY AND KIPAPA IN MILILANI			
		CONSTRUCTION			140
		TOTAL FUNDING	TRN	A	140 A

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
19.	HP1501	PEDESTRIAN WALKWAY, WAIMANANA BRIDGE, HAUULA, OAHU	PLAN AND CONSTRUCTION FOR A PEDESTRIAN WALKWAY ON WAIMANANA BRIDGE BETWEEN SACRED FALLS AND POKIWA STREET.		
			PLANS	12	
			CONSTRUCTION	53	
			TOTAL FUNDING	TRN	A
					65 A
20.	HP1108	WAIWA ROAD AND FARRINGTON HIGHWAY INTERSECTION IMPROVEMENTS	CONSTRUCTION OF RIGHT TURN LANE AT FARRINGTON HIGHWAY AND WAIWA REALIGNMENT ROAD		
			CONSTRUCTION		92
			TOTAL FUNDING	TRN	A
					92 A
21.	HP4502	INTERSECTION OF WAIPAHU STREET AND MOKUOLA STREET, OAHU	PLANS, DESIGN AND CONSTRUCTION OF A TRAFFIC SIGNAL LIGHT AT THE INTERSECTION OF WAIPAHU AND MOKUOLA STREETS.		
			PLANS	3	
			DESIGN	8	
			CONSTRUCTION	64	
			TOTAL FUNDING	TRN	A
					75 A
TRN511 - HAWAII HIGHWAYS AND SERVICES					
22.	HP0401	HAWAII BELT ROAD, INTERSECTION OF KALANIANAOLE SCHOOL, PAPAISO, HAWAII	PLANS, CONSTRUCTION AND INSTALLATION OF FLASHING WARNING LIGHTS.		
			PLANS	5	
			CONSTRUCTION	5	
			TOTAL FUNDING	TRN	A
					10 A
23.	SP0104	FERN FOREST SUBDIVISION STREETLIGHT, HAWAII	DESIGN, CONSTRUCTION AND EQUIPMENT PURCHASE OF STREETLIGHT AT THE INTERSECTION OF SOUTH KULANI AND HAWAII BELT ROAD, PUNA, HAWAII		
			DESIGN	1	
			CONSTRUCTION	2	
			EQUIPMENT	2	
			TOTAL FUNDING	TRN	A
					5 A
24.	HP0501	OLD HONAUNAU POST OFFICE, HAWAII	PLANS, DESIGN AND CONSTRUCTION FOR A DRAINAGE CULVERT TO ALLEVIATE THE FLOODING PROBLEM AT MILE POST 105-6 HAWAII BELT ROAD (AT THE OLD HONAUNAU POST OFFICE).		
			PLANS	1	
			DESIGN	1	
			CONSTRUCTION		48

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		TOTAL FUNDING	TRN	A	50 A
25.	SP0106	MOUNTAIN VIEW SCHOOL ROAD IMPROVEMENT SYSTEM, HAWAII			
		DESIGN AND CONSTRUCTION OF A VEHICULAR EGRESS FROM THE PREMISES OF MOUNTAIN VIEW SCHOOL DRIVEWAY TO EKENA STREET, MOUNTAIN VIEW, PUNA, HAWAII			
		DESIGN		5	
		CONSTRUCTION		45	
		TOTAL FUNDING	TRN	A	50 A
26.	JP0105	HOOKENA SCHOOL, HAWAII			
		PLANS, DESIGN, CONSTRUCTION AND INSTALLATION OF FLASHING LIGHTS AND REDUCED MILES-PER-HOUR SIGNS FOR HOOKENA SCHOOL, SOUTH KONA, HAWAII.			
		PLANS		1	
		DESIGN		5	
		CONSTRUCTION		20	
		EQUIPMENT		17	
		TOTAL FUNDING	TRN	A	43 A
27.	HP0105	STREET LIGHTS			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR STREET LIGHTS AT VARIOUS INTERSECTIONS IN THE FIRST REPRESENTATIVE DISTRICT, COUNTY OF HAWAII.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		18	
		EQUIPMENT		1	
		TOTAL FUNDING	TRN	A	21 A
28.	SP0302	ROAD IMPROVEMENTS			
		PLANS, DESIGN AND CONSTRUCTION OF ROAD IMPROVEMENTS TO THE LAUPAHOEHOE HOMESTEAD ROAD.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		23	
		TOTAL FUNDING	TRN	A	25 A
29.	JP0304	WAIKOLU BRIDGE, HAWAII			
		PLANS, DESIGN AND CONSTRUCTION OF IMPROVEMENTS TO REPAIR WAIKOLU BRIDGE IN NINOLE, HAWAII.			
		PLANS		1	
		DESIGN		9	
		CONSTRUCTION		65	
		TOTAL FUNDING	TRN	A	75 A
30.	SP0105	VOLCANO ROAD AND ALA LOOP INTERSECTION STREET LIGHT, HAWAII			
		DESIGN, CONSTRUCTION AND EQUIPMENT PURCHASE OF STREET LIGHT AT VOLCANO ROAD AND ALA LOOP			

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		INTERSECTION, AS WELL AS, RE-STRIPPING PARTS OF VOLCANO ROAD NEAR THE INTERSECTION, PUNA, HAWAII			
		DESIGN			1
		CONSTRUCTION			2
		EQUIPMENT			2
		TOTAL FUNDING	TRN	A	5 A
TRN531 - MAUI HIGHWAYS AND SERVICES					
31.	JP0510	BIKEPATHS, WEST MAUI			
		DESIGN AND CONSTRUCTION OF BIKEPATHS ON WEST MAUI			
		DESIGN			10
		CONSTRUCTION			100
		TOTAL FUNDING	TRN	A	110 A
32.	HP1006	HONOAPIILANI HIGHWAY AND LAHAINALUNA ROAD IMPROVEMENTS, MAUI			
		CONSTRUCTION OF LEFT-ARROW TURN SIGNALS AT HONOAPIILANI HIGHWAY AND LAHAINALUNA ROAD, LAHAINA, MAUI AND OTHER CONSTRUCTION AT THE INTERSECTION			
		CONSTRUCTION			10
		TOTAL FUNDING	TRN	A	10 A
33.	HP0901	WIDENING AND IMPROVEMENTS TO WAIEHU BEACH ROAD, MAUI			
		PLANS, DESIGN AND CONSTRUCTION OF IMPROVEMENTS TO BEACH ROAD ON WAILUKU, MAUI; PROJECT TO INCLUDE WIDENING AND OTHER HIGHWAY SAFETY MEASURES.			
		PLANS			10
		DESIGN			15
		CONSTRUCTION			225
		TOTAL FUNDING	TRN	A	250 A
TRN541 - MOLOKAI HIGHWAYS AND SERVICES					
34.	HP1011	KALAUPAPA ROADWAYS, MOLOKAI			
		DESIGN AND CONSTRUCTION OF ROADS TO KALAUPAPA, MOLOKAI			
		DESIGN			2
		CONSTRUCTION			20
		TOTAL FUNDING	TRN	A	22 A
35.	HP1005	SIDEWALK FROM KAUNAKAKAI TO HOTEL MOLOKAI			
		CONSTRUCTION OF SIDEWALK FROM KAUNAKAKAI TO HOTEL MOLOKAI			
		CONSTRUCTION			5
		TOTAL FUNDING	TRN	A	5 A
TRN551 - LANAI HIGHWAYS AND SERVICES					

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CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
36.	JP0510	TRUCK RUNAWAY RAMP FOR ROAD TO LANAI HARBOR, LANAI			
DESIGN AND CONSTRUCT A RUNAWAY TRUCK RAMP ON THE HILL LEADING DOWN TO THE LANAI HARBOR					
		DESIGN		2	
		CONSTRUCTION		30	
		TOTAL FUNDING	TRN	A	32 A
TRN561 - KAUAI HIGHWAYS AND SERVICES					
37.	SP2508	KAUMUALII HIGHWAY RESURFACING, KAUAI			
AUGMENT THE DEPARTMENT OF TRANSPORTATION'S KAUAI FUNDS FOR THE RESURFACING OF KAUMUALII HIGHWAY IN MANA BETWEEN MILEPOST 30.1 AND 31, KAUAI					
		CONSTRUCTION		114	
		TOTAL FUNDING	TRN	A	114 A
TRN597 - SAFETY ADMINISTRATION OF LAND TRANSPORTATION					
38.	SP2410	TRAFFIC SIGNAL LIGHT ON FARRINGTON HIGHWAY			
PLANS AND DESIGN FOR A TRAFFIC SIGNAL LIGHT AT THE INTERSECTION OF FARRINGTON HIGHWAY & MOHIHI STREET, NANAKULI.					
		PLANS		5	
		DESIGN		5	
		TOTAL FUNDING	TRN	A	10 A
ENVIRONMENTAL PROTECTION					
TRN903 - COASTAL AREAS					
1.	JP1529	ALA WAI CANAL			
PLANS, DESIGN, AND CONSTRUCTION FOR DAMAGED MAUKA WALL OF ALA WAI CANAL MAKAI OF ALA WAI SCHOOL.					
		PLANS		5	
		DESIGN		5	
		CONSTRUCTION		40	
		TOTAL FUNDING	TRN	A	50 A
HEALTH					
HTH801 - HEALTH CARE SERVICES					
1.	SP1001	WAIMANALO MATERNAL & CHILD CARE CLINIC, OAHU			
RESURFACE PARKING LOT. INSTALL SECURITY BARS					
		CONSTRUCTION		37	
		TOTAL FUNDING	AGS	A	37 A
2.	SP1304	ALA MOANA HEALTH CENTER, OAHU			

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		DESIGN NEW OFFICE AND STORAGE SPACE, ELIMINATING THE MAINTENANCE SHOP BUILDING			
		DESIGN			24
		TOTAL FUNDING	AGS	A	24 A
3.	SP1305	DIAMOND HEAD HEALTH CENTER, OAHU			
		DESIGN AND CONSTRUCT ADDITIONAL OFFICE, CONFERENCE, AND STORAGE SPACE			
		DESIGN			38
		CONSTRUCTION			334
		TOTAL FUNDING	AGS	A	372 A
4.	HP5103	HALE HAUOLI, HANAMAULU, KAUAI			
		DESIGN FOR NEW FACILITIES. (GRANT-IN-AID)			
		DESIGN			30
		TOTAL FUNDING	AGS	A	30 A
5.	SPI511	KAPAHULU HEALTH CENTER			
		PLANS AND DESIGN OF NEW BUILDING FOR KAPAHULU HEALTH CLINIC TO INCLUDE OFFICE SPACE AND ON GROUND FLOOR A CHILD FACILITY FOR APPROXIMATELY 50 CHILDREN.			
		PLANS			5
		DESIGN			70
		TOTAL FUNDING	AGS	A	75 A
6.	SP1301	KAPAHULU HEALTH CENTER, OAHU			
		PROJECT DEVELOPMENT REPORT FOR A NEW HEALTH CLINIC AND OFFICE BUILDING, AND POSSIBLE CHILD-CARE FACILITY.			
		PLANS			45
		TOTAL FUNDING	AGS	A	45 A
HTH231 - KAUAI VETERANS MEMORIAL HOSPITAL					
7.	HP5101	KAUAI VETERANS MEMORIAL HOSPITAL			
		DESIGN AND CONSTRUCTION OF FOUR ADDITIONAL ROOMS			
		DESIGN			5
		CONSTRUCTION			75
		EQUIPMENT			12
		TOTAL FUNDING	AGS	A	92 A
HTH242 - LEAHI HOSPITAL					
8.	HP2606	LEAHI HOSPITAL, OAHU			
		PLANNING FOR THE CHILDREN'S BUILDING.			
		PLANS			40
		TOTAL FUNDING	AGS	A	40 A
HTH907 - GENERAL ADMINISTRATION					
9.	JS0201	WAIAKEA HEALTH CENTER, HAWAII			

ACT 2**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		PLAN, DESIGN AND CONSTRUCTION OF AN ENVIRONMENTAL HEALTH FACILITY PROGRAM IN THE WAIAKEA HEALTH CENTER COMPLEX.			
		PLANS		35	
		DESIGN		40	
		CONSTRUCTION		425	
		TOTAL FUNDING	AGS	500	A
10.	SP0510	WEST MAUI EMERGENCY FACILITY			
		PLANNING AND DESIGN FOR AN EMERGENCY HEALTH CARE FACILITY IN WEST MAUI.			
		PLANS		5	
		DESIGN		5	
		TOTAL FUNDING	AGS	10	A
		SUB601 - PRIVATE HOSPITALS & MEDICAL SERVICES			
11.	SP0706	KAHUKU HOSPITAL, OAHU			
		DESIGN AND CONSTRUCTION TO IMPROVE THE STRUCTURE OF ROOF FOR THE PLANTATION WING OF KAHUKU HOSPITAL. (GRANT-IN-AID)			
		DESIGN		5	
		CONSTRUCTION		45	
		TOTAL FUNDING	HTH	50	A
		SOCIAL SERVICES			
		SOC220 - RENTAL HOUSING AUGMENTATION AND ASSISTANCE			
1.	HP3906	KAAHUMANU HOUSING PROJECT			
		CONSTRUCT FOUR (4) TRASH ENCLOSURES, INSTALL FOUR (4) HOSE BIBS AND SMOKE DETECTORS			
		CONSTRUCTION		29	
		TOTAL FUNDING	HHA	29	A
		FORMAL EDUCATION			
		EDN105 - REGULAR INSTRUCTION PROGRAM			
1.	HP1502	AHUIMANU ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR CONVERSION OF OPEN CLASSROOMS			
		DESIGN		10	
		CONSTRUCTION		50	
		TOTAL FUNDING	AGS	60	A
2.	SP0801	AHUIMANU ELEMENTARY SCHOOL, OAHU			
		IMPROVEMENTS TO DRAINAGE BEHIND BUILDING E			
		CONSTRUCTION		25	
		TOTAL FUNDING	AGS	25	A
3.	SP0811	AHUIMANU ELEMENTARY SCHOOL, OAHU			
		DESIGN AND PLAN NEW CLASSROOM BUILDING.			

ACT 2**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		PLANS			10
		DESIGN			10
		TOTAL FUNDING	AGS	A	20 A
4.	HP4105	AIEA ELEMENTARY SCHOOL			
		DESIGN AND CONSTRUCTION OF COVERING FOR A WALKWAY BETWEEN BUILDING A AND BUILDING B			
		DESIGN			1
		CONSTRUCTION			7
		TOTAL FUNDING	AGS	A	8 A
5.	SP2106	AIEA ELEMENTARY SCHOOL			
		DESIGN AND CONSTRUCTION OF COVERED WALKWAY FROM BUILDING A TO B			
		DESIGN			4
		CONSTRUCTION			10
		TOTAL FUNDING	AGS	A	14 A
6.	SP2108	AIEA HIGH SCHOOL			
		DESIGN AND CONSTRUCT FRONT LAWN			
		DESIGN			5
		CONSTRUCTION			20
		TOTAL FUNDING	AGS	A	25 A
7.	SP1206	AINA HAINA SCHOOL, OAHU			
		PLANS, DESIGN, AND CONSTRUCTION FOR THE REPLACEMENT OF WINDOWS.			
		PLANS			5
		DESIGN			5
		CONSTRUCTION			90
		TOTAL FUNDING	AGS	A	100 A
8.	SP1207	AINA HAINA SCHOOL, OAHU			
		PLANS, DESIGN, AND CONSTRUCTION OF ENCLOSED CLASSROOM LANAI.			
		PLANS			5
		DESIGN			5
		CONSTRUCTION			67
		TOTAL FUNDING	AGS	A	77 A
9.	SP1501	ALA WAI ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION OF THREE SECURITY GATES FOR PARKING AREA			
		DESIGN			1
		CONSTRUCTION			3
		TOTAL FUNDING	AGS	A	4 A
10.	HP3901	ALIAMANU ELEMENTARY SCHOOL			
		CONSTRUCT 100 YARDS OF FENCING			
		CONSTRUCTION			2
		TOTAL FUNDING	AGS	A	2 A

ACT 2**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
11.	HP3902	ALIAMANU INTERMEDIATE SCHOOL			
		PLAN AND CONSTRUCT A CHAIN LINK FENCE FOR PLAYGROUND.			
		PLANS			5
		CONSTRUCTION			25
		TOTAL FUNDING	AGS	A	30 A
12.	SP2001	ALIAMANU INTERMEDIATE SCHOOL			
		STUDY, PLANS, AND SITE WORK TO UPGRADE THE SCHOOL PHYSICAL EDUCATION PLAY FIELD BY REMOVING ANY OBSTACLES ON THE FIELD, AND BY MAKING ANY NECESSARY IMPROVEMENTS TO PROVIDE A SAFE AND AESTHETICALLY PLEASING ENVIRONMENT FOR RECREATION PURPOSES.			
		PLANS			5
		DESIGN			5
		CONSTRUCTION			90
		TOTAL FUNDING	AGS	A	100 A
13.	HP4002	ALIAMANU INTERMEDIATE SCHOOL, OAHU			
		CONSTRUCT FENCING AT ALIAMANU INTERMEDIATE SCHOOL			
		CONSTRUCTION			25
		TOTAL FUNDING	AGS	A	25 A
14.	SP2205	AUGUST AHRENS ELEMENTARY SCHOOL			
		DESIGN AND CONSTRUCTION OF SECURITY SCREENS FOR BUILDING B			
		DESIGN			5
		CONSTRUCTION			16
		TOTAL FUNDING	AGS	A	21 A
15.	SP2204	AUGUST AHRENS ELEMENTARY SCHOOL			
		DESIGN AND CONSTRUCTION OF SECURITY SCREENS FOR BUILDING A			
		DESIGN			8
		CONSTRUCTION			36
		TOTAL FUNDING	AGS	A	44 A
16.	SP2203	AUGUST AHRENS ELEMENTARY SCHOOL			
		DESIGN AND CONSTRUCTION OF REPLACEMENT OF GLASS JALOUSIES WITH WOOD LOUVRES			
		DESIGN			10
		CONSTRUCTION			70
		TOTAL FUNDING	AGS	A	80 A
17.	JP2346	CAMPBELL HIGH SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR THE INSTALLATION OF CLOSE CIRCUIT TELEVISIONS IN ALL CLASSROOMS			
		DESIGN			5
		CONSTRUCTION			20
		TOTAL FUNDING	AGS	A	25 A

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
18.	J23461	CAMPBELL HIGH SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION OF A NEW SCOREBOARD FOR THE FOOTBALL FIELD			
		DESIGN		2	
		CONSTRUCTION		18	
		TOTAL FUNDING	AGS		20 A
19.	HP4603	CAMPBELL HIGH SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION OF VENTILATION FANS IN GYMNASIUM			
		DESIGN		7	
		CONSTRUCTION		63	
		TOTAL FUNDING	AGS		70 A
20.	JP0917	CASTLE HIGH SCHOOL, OAHU			
		PLAN, DESIGN AND CONSTRUCTION FOR A NEW CASTLE HIGH SCHOOL GYMNASIUM.			
		PLANS		45	
		DESIGN		30	
		CONSTRUCTION		500	
		TOTAL FUNDING	AGS		575 A
21.	HP3506	CENTRAL INTERMEDIATE SCHOOL			
		INSTALL CALL HONKS FOR BUILDINGS D, F, AND G.			
		EQUIPMENT		4	
		TOTAL FUNDING	AGS		4 A
22.	SP1704	CENTRAL INTERMEDIATE SCHOOL			
		REPLACE WINDOWS IN AUDITORIUM WITH LOUVERS			
		DESIGN		1	
		CONSTRUCTION		8	
		TOTAL FUNDING	AGS		9 A
23.	HP3802	FERN ELEMENTARY SCHOOL, OAHU			
		DESIGN, CONSTRUCTION AND INSTALLATION OF A SECURITY GATE IN BUILDING F, SECOND FLOOR			
		DESIGN		2	
		CONSTRUCTION		18	
		EQUIPMENT		6	
		TOTAL FUNDING	AGS		26 A
24.	HP0601	HAIKU ELEMENTARY SCHOOL, MAUI			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR A PORTABLE CLASSROOM.			
		PLANS		1	
		DESIGN		3	
		CONSTRUCTION		79	
		EQUIPMENT		1	
		TOTAL FUNDING	AGS		84 A
25.	HP1401	HALEIWA ELEMENTARY SCHOOL, OAHU			

ACT 2**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		DESIGN AND CONSTRUCTION OF A COVERED WALKWAY			
		DESIGN			2
		CONSTRUCTION			25
		TOTAL FUNDING	AGS	A	27 A
26.	HP1403	HALEIWA ELEMENTARY SCHOOL, OAHU			
		CONSTRUCTION OF PARKING AREA IMPROVEMENTS			
		CONSTRUCTION			14
		TOTAL FUNDING	AGS	A	14 A
27.	HP1404	HALEIWA ELEMENTARY SCHOOL, OAHU			
		CONSTRUCTION OF PLAYCOURT IMPROVEMENTS			
		CONSTRUCTION			5
		TOTAL FUNDING	AGS	A	5 A
28.	HP1406	HALEIWA ELEMENTARY SCHOOL, OAHU			
		CONSTRUCT AND INSTALL ELECTRICAL OUTLETS AND AIR			
		CONDITIONERS FOR COMPUTER CENTER AND LIBRARY			
		CONSTRUCTION			6
		EQUIPMENT			13
		TOTAL FUNDING	AGS	A	19 A
29.	HP0603	HANA HIGH & ELEMENTARY SCHOOL, MAUI			
		PLANS, DESIGN AND CONSTRUCTION FOR A PORTABLE			
		CLASSROOM.			
		PLANS			1
		DESIGN			3
		CONSTRUCTION			79
		TOTAL FUNDING	AGS	A	83 A
30.	JS0304	HANA ELEMENTARY & HIGH SCHOOL, MAUI			
		DESIGN, CONSTRUCTION, IMPROVEMENTS AND			
		EQUIPMENT TO COMPLETE HANA SCHOOL GYMNASIUM			
		DESIGN			10
		CONSTRUCTION			50
		EQUIPMENT			15
		TOTAL FUNDING	AGS	A	75 A
31.	SP0817	HAUULA ELEMENTARY SCHOOL, OAHU			
		CEMENTING AND CREATING A COURTYARD BETWEEN THE			
		OFFICE AND CAFETERIA			
		DESIGN			5
		CONSTRUCTION			20
		TOTAL FUNDING	AGS	A	25 A
32.	JP0816	HEEIA ELEMENTARY SCHOOL, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR IMPROVEMENTS			
		TO FACILITIES AND GROUNDS.			
		PLANS			5
		DESIGN			5
		CONSTRUCTION			40

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CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)		
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F	
		TOTAL FUNDING	AGS	A	50 A	
33. HP1303 HELEMANO ELEMENTARY SCHOOL, OAHU						
PLANNING, DESIGN AND CONSTRUCTION FOR ADDITIONAL CLASSROOMS.						
		PLANS		25		
		DESIGN		25		
		CONSTRUCTION		64		
		TOTAL FUNDING	AGS	A	114 A	
34. J22434 HIGHLANDS INTERMEDIATE SCHOOL						
DESIGN AND CONSTRUCTION OF A CATTLE GATE FOR PARKING ACCESS AT THE TWO ENTRANCES OF THE SCHOOL						
		DESIGN		2		
		CONSTRUCTION		4		
		TOTAL FUNDING	AGS	A	6 A	
35. J22435 HIGHLANDS INTERMEDIATE SCHOOL						
DESIGN AND CONSTRUCTION OF A SECURITY FENCE						
		DESIGN		6		
		CONSTRUCTION		45		
		TOTAL FUNDING	AGS	A	51 A	
36. J22433 HIGHLANDS INTERMEDIATE SCHOOL						
DESIGN AND CONSTRUCTION OF AN ADDITIONAL PARKING LOT AT THE CORNER OF HOOMAEMAE AND HOOLAULEA						
		DESIGN		3		
		CONSTRUCTION		30		
		TOTAL FUNDING	AGS	A	33 A	
37. J22441 HIGHLANDS INTERMEDIATE SCHOOL						
PLANNING, DESIGN, AND CONSTRUCTION FOR IMPROVEMENTS TO CORRECT HEALTH, SAFETY, AND SECURITY CONCERNs, INCLUDING LANDSCAPING, SECURITY SCREENS AND OTHER PROJECTS.						
		PLANS		10		
		DESIGN		10		
		CONSTRUCTION		83		
		TOTAL FUNDING	AGS	A	103 A	
38. HP0301 HILO HIGH SCHOOL						
PLANNING OF A METAL/WOODS SHOP FACILITY AT HILO HIGH SCHOOL.						
		PLANS		220		
		TOTAL FUNDING	AGS	A	220 A	
39. HP0303 HILO UNION ELEMENTARY SCHOOL, HAWAII						
CONSTRUCTION OF A ONE CLASSROOM PORTABLE BUILDING						
		CONSTRUCTION		60		

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CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		TOTAL FUNDING	AGS	A	60 A
40. HP2801 HOKULANI ELEMENTARY SCHOOL					
PLANS, DESIGN AND CONSTRUCTION OF GROUND AND BUILDING IMPROVEMENTS.					
		PLANS			1
		DESIGN			1
		CONSTRUCTION			98
		TOTAL FUNDING	AGS	A	100 A
41. HP0802 IAO INTERMEDIATE SCHOOL, MAUI					
CONSTRUCTION OF A BASKETBALL COURT FOR STUDENT ACTIVITIES					
		CONSTRUCTION			45
		TOTAL FUNDING	AGS	A	45 A
42. HP1305 ILIAHI ELEMENTARY SCHOOL, OAHU					
PLANS AND DESIGN TO COVER EXISTING WALKWAYS.					
		PLANS			10
		DESIGN			10
		TOTAL FUNDING	AGS	A	20 A
43. J23465 IROQUOIS POINT ELEMENTARY SCHOOL, OAHU					
DESIGN AND CONSTRUCTION OF A CONCRETE WALKWAY FROM BUILDING F TO THE SCHOOL'S REAR BOUNDARY					
		DESIGN			1
		CONSTRUCTION			7
		TOTAL FUNDING	AGS	A	8 A
44. HP2504 JARRETT INTERMEDIATE SCHOOL, OAHU					
PLANS, DESIGN AND CONSTRUCTION FOR THE RENOVATION OF A LEARNING CENTER.					
		PLANS			2
		DESIGN			2
		CONSTRUCTION			29
		TOTAL FUNDING	AGS	A	33 A
45. HP2412 JEFFERSON ELEMENTARY SCHOOL, OAHU					
DESIGN AND CONSTRUCTION OF A SIDEWALK					
		DESIGN			3
		CONSTRUCTION			27
		TOTAL FUNDING	AGS	A	30 A
46. HP2605 JEFFERSON ELEMENTARY SCHOOL					
INSTALLATION OF WATER HEATERS, HOT WATER LINES AND FIXTURES.					
		EQUIPMENT			75
		TOTAL FUNDING	AGS	A	75 A
47. HP3502 KA'AHUMANU ELEMENTARY SCHOOL					

CAPITAL IMPROVEMENT PROJECTS

APPROPRIATIONS
(IN 000'S)

ITEM NO.	CAPITAL PROJECT NO.	CAPITAL PROJECT TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		PLANS AND CONSTRUCTION OF PLAYGROUND IMPROVEMENTS.			
		PLANS			3
		CONSTRUCTION			37
		TOTAL FUNDING	AGS	A	40 A
48.	SP0808	KAAWA ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION OF A COVERED WALKWAY FROM BUILDING A PAST PORTABLES 1, 2, 4 AND TO THE CAFETERIA			
		DESIGN			5
		CONSTRUCTION			20
		TOTAL FUNDING	AGS	A	25 A
49.	HP2401	KAHALA ELEMENTARY SCHOOL			
		DESIGN AND CONSTRUCTION TO COVER EXISTING CONCRETE SLABS UNDER PLAYGROUND EQUIPMENT WITH CUSHIONED ASPHALT			
		DESIGN			1
		CONSTRUCTION			5
		TOTAL FUNDING	AGS	A	6 A
50.	HP2402	KAHALA ELEMENTARY SCHOOL			
		DESIGN & CONSTRUCTION OF FOUR (4) WALLS WITH DOORWAY, TO BE BUILT BETWEEN CLASSROOMS			
		DESIGN			3
		CONSTRUCTION			7
		TOTAL FUNDING	AGS	A	10 A
51.	HP2404	KAHALA ELEMENTARY SCHOOL			
		DESIGN AND CONSTRUCTION OF AN EXTENSION TO THE EXISTING COVERED WALKWAY			
		DESIGN			1
		CONSTRUCTION			7
		TOTAL FUNDING	AGS	A	8 A
52.	SP0803	KAHALUU ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION OF SAFETY FENCE			
		DESIGN			2
		CONSTRUCTION			9
		TOTAL FUNDING	AGS	A	11 A
53.	HP1411	KAHUKU HIGH AND ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION OF METAL RAILINGS FOR BUILDING Y BALCONIES			
		DESIGN			5
		CONSTRUCTION			45
		TOTAL FUNDING	AGS	A	50 A
54.	HP1903	KAILUA ELEMENTARY SCHOOL, OAHU			
		CONSTRUCTION FOR RENOVATIONS TO CLASSROOMS			
		CONSTRUCTION			15

ACT 2**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		TOTAL FUNDING	AGS	A	15 A
55.	HP1901	KAILUA INTERMEDIATE SCHOOL, OAHU CONSTRUCTION OF DUST COLLECTION SYSTEM CONSTRUCTION TOTAL FUNDING	AGS	A	100 100 A
56.	HP2005	KAILUA HIGH SCHOOL CONSTRUCTION AND INSTALLATION OF A BOOK SECURITY SYSTEM CONSTRUCTION TOTAL FUNDING	AGS	A	20 20 A
57.	J23462	KAIMILOA ELEMENTARY SCHOOL, OAHU DESIGN AND CONSTRUCT A WALL IN CLASSROOMS 13, 14, 15, AND 16 DESIGN CONSTRUCTION TOTAL FUNDING	AGS	A	3 30 33 A
58.	SP1405	KAIMUKI HIGH SCHOOL PAVEMENT AND IMPROVEMENT OF ROADWAY BY THEATER/LEARNING CENTER. PLANS DESIGN CONSTRUCTION TOTAL FUNDING	AGS	A	5 5 40 50 A
59.	HP2601	KAIMUKI INTERMEDIATE SCHOOL INSTALLATION OF PA SYSTEMS IN ALL CLASSROOMS. EQUIPMENT TOTAL FUNDING	AGS	A	25 25 A
60.	HP2602	KAIMUKI INTERMEDIATE SCHOOL CONSTRUCTION TO LOWER CEILING AND INSTALL AIR CONDITIONING IN SCIENCE ROOM CONSTRUCTION EQUIPMENT TOTAL FUNDING	AGS	A	10 10 20 A
61.	HP1902	KAINALU ELEMENTARY SCHOOL, OAHU DESIGN AND CONSTRUCT MULTI-PURPOSE PLAYCOURT DESIGN CONSTRUCTION TOTAL FUNDING	AGS	A	10 85 95 A
62.	HP2104	KAISEI HIGH SCHOOL, OAHU PLANS, DESIGN AND CONSTRUCTION FOR WALKWAY AT ENTRANCE TO KAISEI HIGH SCHOOL STADIUM. PLANS DESIGN			1 2

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CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		CONSTRUCTION			17
		TOTAL FUNDING	AGS	A	20 A
63.	HP2105	KAISER HIGH SCHOOL, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR A NEW GATE TO KAISER HIGH SCHOOL FOOTBALL STADIUM.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			8
		TOTAL FUNDING	AGS	A	10 A
64.	HP2107	KAISER HIGH SCHOOL, OAHU			
		PLANS, DESIGN AND CONSTRUCTION OF AN EMERGENCY ROADWAY FROM PARKING LOT TO SCHOOL GYMNASIUM.			
		PLANS			2
		DESIGN			3
		CONSTRUCTION			70
		TOTAL FUNDING	AGS	A	75 A
65.	SP1102	KAISER HIGH SCHOOL COMMUNITY AUDITORIUM, OAHU			
		PLANS, DESIGN AND CONSTRUCTION OF A COMMUNITY AUDITORIUM AT KAISER HIGH SCHOOL.			
		PLANS			25
		DESIGN			25
		CONSTRUCTION			50
		TOTAL FUNDING	AGS	A	100 A
66.	SP1103	KAISER HIGH SCHOOL, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT TO CONSTRUCT A TICKET BOOTH AT THE GATE OF KAISER HIGH SCHOOL STADIUM.			
		PLANS			5
		DESIGN			10
		CONSTRUCTION			90
		EQUIPMENT			10
		TOTAL FUNDING	AGS	A	115 A
67.	SP1104	KAISER HIGH SCHOOL, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR INSTALLING SECURITY LIGHTS ALONG SIDEWALKS TO STADIUM AT KAISER HIGH SCHOOL.			
		PLANS			5
		DESIGN			5
		CONSTRUCTION			85
		EQUIPMENT			5
		TOTAL FUNDING	AGS	A	100 A
68.	HP3903	KALAKAUA INTERMEDIATE SCHOOL			
		PURCHASE AND INSTALL PUBLIC ADDRESS SYSTEM.			
		EQUIPMENT			4
		TOTAL FUNDING	AGS	A	4 A

ACT 2**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
69.	HP2301	KALANI HIGH SCHOOL			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR RENOVATION AND EXPANSION OF GYMNASIUM, SHOWER FACILITIES, WRESTLING ROOM AND OTHER IMPROVEMENTS.			
		PLANS		10	
		DESIGN		10	
		CONSTRUCTION		225	
		EQUIPMENT		5	
		TOTAL FUNDING	AGS	A	250 A
70.	J12238	KALANI HIGH SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR THE REPAIR OF RAILINGS ON BUILDING LANAI'S AND STAIRWELLS			
		DESIGN		10	
		CONSTRUCTION		40	
		TOTAL FUNDING	AGS	A	50 A
71.	SP1209	KALANI HIGH SCHOOL, OAHU			
		EXTERIOR PAINTING			
		CONSTRUCTION			
		TOTAL FUNDING	AGS	A	25 A
72.	SP1211	KALANI HIGH SCHOOL, OAHU			
		PLANS, DESIGN, AND CONSTRUCTION OF GYM BLEACHERS.			
		PLANS		5	
		DESIGN		5	
		CONSTRUCTION		40	
		TOTAL FUNDING	AGS	A	50 A
73.	HP0403	KALANIANAOLE ELEMENTARY SCHOOL, HAWAII			
		DESIGN AND CONSTRUCTION OF A COVERED WALKWAY SYSTEM FOR KALANIANAOLE SCHOOL			
		DESIGN		4	
		CONSTRUCTION		26	
		TOTAL FUNDING	AGS	A	30 A
74.	HP3904	KALIHI KAI ELEMENTARY SCHOOL			
		PLANNING FOR SOUND PROOFING CLASSROOMS.			
		PLANS		40	
		TOTAL FUNDING	AGS	A	40 A
75.	SP1902	KALIHI KAI ELEMENTARY SCHOOL			
		IMPROVE PRESENT DRAINAGE SYSTEM FROM FLOODING.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		13	
		TOTAL FUNDING	AGS	A	15 A
76.	HP1105	KANOELANI ELEMENTARY SCHOOL			

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		PLAN, DESIGN AND CONSTRUCT CONCRETE SIDEWALKS (NORTH END SIDE OF TWO CLASSROOM BUILDINGS).			
		PLANS			2
		DESIGN			3
		CONSTRUCTION			45
		TOTAL FUNDING	AGS	A	50 A
77.	SP2505	KAPAA HIGH & INTERMEDIATE SCHOOL, KAUAI			
		PLANNING AND DESIGN OF CLASSROOM BUILDING AND AGRICULTURE FARM SHOP WITH CONTROLLED ENVIRONMENT HOUSE AND GREENHOUSE.			
		PLANS			50
		DESIGN			50
		TOTAL FUNDING	AGS	A	100 A
78.	JP1803	KAPIOLANI ELEMENTARY SCHOOL, HAWAII			
		PLANNING, DESIGN & CONSTRUCTION OF A CONCRETE WALKWAY, COVERING & SUPPORT COLUMNS. WALKWAY TO ACCOMMODATE THE LOADING & UNLOADING OF SCHOOL BUSES.			
		PLANS			5
		DESIGN			5
		CONSTRUCTION			140
		TOTAL FUNDING	AGS	A	150 A
79.	HP5102	KAUAI HIGH SCHOOL			
		DESIGN AND CONSTRUCT PARKING FOR STUDENTS			
		DESIGN			5
		CONSTRUCTION			85
		TOTAL FUNDING	AGS	A	90 A
80.	SP1011	KIHEI ELEMENTARY, MAUI			
		CONSTRUCTION OF A PORTABLE CLASSROOM FOR KIHEI ELEMENTARY			
		CONSTRUCTION			80
		TOTAL FUNDING	AGS	A	80 A
81.	HP1606	KING INTERMEDIATE SCHOOL, OAHU			
		DESIGN FOR NEW CLASSROOM FACILITIES			
		DESIGN			25
		TOTAL FUNDING	AGS	A	25 A
82.	SP0802	KING INTERMEDIATE SCHOOL, OAHU			
		ADDITIONAL COMPUTERS, OFFICE EQUIPMENT INSTALLATION OF AIR CONDITIONING FOR EQUIPMENT MAINTENANCE			
		DESIGN			2
		EQUIPMENT			23
		TOTAL FUNDING	AGS	A	25 A
83.	HP0602	KOHALA HIGH AND ELEMENTARY SCHOOL, HAWAII			

ACT 2**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		PLANS, DESIGN AND CONSTRUCTION OF A PORTABLE CLASSROOM.			
		PLANS			1
		DESIGN			3
		CONSTRUCTION			79
		TOTAL FUNDING	AGS	A	83 A
84.	HP2108	KOKO HEAD ELEMENTARY SCHOOL, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR RESTORATIONS OF ALL BUILDINGS (INTERIOR AND EXTERIOR) EXCEPT THE LIBRARY.			
		PLANS			2
		DESIGN			3
		CONSTRUCTION			30
		TOTAL FUNDING	AGS	A	35 A
85.	JP1529	KUHIO ELEMENTARY SCHOOL			
		PLANS, DESIGN, AND CONSTRUCTION OF LOWER CAMPUS PARKING LOT WITH SIGNS, TWO (2) SECURITY GATES, AND ENCLOSING FENCE.			
		PLANS			5
		DESIGN			5
		CONSTRUCTION			87
		TOTAL FUNDING	AGS	A	97 A
86.	J15291	KUHIO ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION OF PLAY COURT ENCLOSED BY FENCED			
		DESIGN			2
		CONSTRUCTION			18
		TOTAL FUNDING	AGS	A	20 A
87.	SP0512	LAHAINA INTERMEDIATE SCHOOL, MAUI			
		CONSTRUCTION OF A PORTABLE CLASSROOM FOR LAHAINA INTERMEDIATE			
		CONSTRUCTION			80
		TOTAL FUNDING	AGS	A	80 A
88.	JP0510	LAHAINALUNA HIGH SCHOOL, MAUI			
		CONSTRUCT AND EQUIP A FACILITY FOR LAHAINALUNA HIGH SCHOOL AGRICULTURAL PROGRAM			
		CONSTRUCTION			10
		EQUIPMENT			15
		TOTAL FUNDING	AGS	A	25 A
89.	SP2210	LEHUA ELEMENTARY SCHOOL			
		DESIGN AND CONSTRUCTION OF 20 ADDITIONAL PARKING SPACES AT SCHOOL			
		DESIGN			4
		CONSTRUCTION			35
		TOTAL FUNDING	AGS	A	39 A
90.	HP4802	LEIHOKU ELEMENTARY SCHOOL			

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		DESIGN AND INSTALL SECURITY SCREENS FOR COMPUTER ROOM (ROOM D-103)			
		DESIGN			2
		CONSTRUCTION			5
		TOTAL FUNDING	AGS	A	7 A
91.	HP1306	LEILEHUA HIGH SCHOOL, OAHU			
		PLANNING AND DESIGN OF A BASEBALL FIELD.			
		PLANS			25
		DESIGN			25
		TOTAL FUNDING	AGS	A	50 A
92.	HP3803	LINAPUNI ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCT SECURITY SCREEN FOR BUILDING B WORKROOM			
		DESIGN			3
		CONSTRUCTION			22
		TOTAL FUNDING	AGS	A	25 A
93.	HP3202	LUNALILO ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR RENOVATIONS AND IMPROVEMENTS TO FACILITIES AND GROUNDS			
		DESIGN			5
		CONSTRUCTION			20
		TOTAL FUNDING	AGS	A	25 A
94.	SP1506	LUNALILO ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION OF SECURITY SCREENS FOR LIBRARY AND B BUILDING; H200 STUD WALL			
		DESIGN			5
		CONSTRUCTION			45
		TOTAL FUNDING	AGS	A	50 A
95.	HP4804	MAILI ELEMENTARY SCHOOL			
		DESIGN AND CONSTRUCT A SPRINKLER SYSTEM IN BACK OF BUILDINGS B & C			
		DESIGN			3
		CONSTRUCTION			23
		TOTAL FUNDING	AGS	A	26 A
96.	J24493	MAKAHA ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR A CATTLE GATE			
		DESIGN			2
		CONSTRUCTION			8
		TOTAL FUNDING	AGS	A	10 A
97.	J23471	MAKAKILO ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCT A CHAIN LINK FENCE IN THE BACK OF BUILDINGS A & B			
		DESIGN			2
		CONSTRUCTION			8

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CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		TOTAL FUNDING	AGS	A	10 A
98.	JP2347	MAKAKILO ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR THE IMPROVEMENT OF THE SERVICE ROAD, PARKING LOT, AND LOWER CAMPUS ROADWAYS			
		DESIGN			10
		CONSTRUCTION			45
		TOTAL FUNDING	AGS	A	55 A
99.	HP3905	MAKALAPA ELEMENTARY SCHOOL			
		DESIGN AND CONSTRUCTION OF PARTITIONS TO DIVIDE 12 R-4 CLASSROOMS INTO TWO R-3 ROOMS WITH APPROPRIATE VENTILATION			
		DESIGN			8
		CONSTRUCTION			52
		TOTAL FUNDING	AGS	A	60 A
100.	SP2105	MAKALAPA ELEMENTARY SCHOOL			
		DESIGN AND CONSTRUCT SPRINKLER SYSTEM IN THE PLAYGROUND			
		DESIGN			5
		CONSTRUCTION			20
		TOTAL FUNDING	AGS	A	25 A
101.	J22442	MANANA ELEMENTARY SCHOOL			
		DESIGN AND CONSTRUCTION OF A SECURTIY FENCE AROUND THE SCHOOL			
		DESIGN			4
		CONSTRUCTION			45
		TOTAL FUNDING	AGS	A	49 A
102.	JP1427	MANOA ELEMENTARY SCHOOL			
		PLANS, DESIGN AND CONSTRUCTION FOR IMPROVEMENT TO DRAINAGE DITCH LOCATED ON MAUKA CAMPUS.			
		PLANS			17
		DESIGN			18
		CONSTRUCTION			260
		TOTAL FUNDING	AGS	A	295 A
103.	HP0803	MAUI HIGH SCHOOL, MAUI			
		CONSTRUCTION OF A SPRINKLER SYSTEM AND LANDSCAPING IMPROVEMENTS			
		CONSTRUCTION			50
		TOTAL FUNDING	AGS	A	50 A
104.	JS1718	MCKINLEY HIGH SCHOOL, OAHU			
		REPLACEMENT OF SWIMMING POOL FILTERING SYSTEM			
		DESIGN			4
		CONSTRUCTION			100
		TOTAL FUNDING	AGS	A	104 A

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
105.	SP0607	MILILANI HIGH SCHOOL			
DESIGN FOR CONSTRUCTION OF A TEN-CLASSROOM BUILDING AT MILILANI SCHOOL					
		DESIGN			
		TOTAL FUNDING	AGS	A	131
					131 A
106.	HP4005	MOANALUA HIGH SCHOOL			
CONSTRUCTION OF A CLASSROOM BUILDING					
		CONSTRUCTION			
		TOTAL FUNDING	AGS	A	75
					75 A
107.	SP2003	MOANALUA HIGH SCHOOL			
DESIGN OF A THREE STORY, TWELVE CLASSROOM BUILDING ON THE EAST END OF CAMPUS TO INCLUDE: 2 FULLY EQUIPPED SCIENCE LABS, AN ART CLASSROOM AND A REGULAR CLASSROOM ON THE FIRST FLOOR; AND THE REMAINING CLASSROOMS TO BE OF STANDARD SIZE					
		DESIGN			
		TOTAL FUNDING	AGS	A	75
					75 A
108.	HP1904	MOKAPU ELEMENTARY SCHOOL, OAHU			
CONSTRUCTION FOR RENOVATIONS OF BUILDING F					
		CONSTRUCTION			
		TOTAL FUNDING	AGS	A	40
					40 A
109.	SP1002	MOKAPU ELEMENTARY SCHOOL, OAHU			
DESIGN AND CONSTRUCTION FOR RENOVATION OF J BUILDING INTO A LIBRARY AND RENOVATION OF THE EXISTING LIBRARY WING INTO CLASSROOM					
		DESIGN			
		CONSTRUCTION			
		TOTAL FUNDING	AGS	A	44
					44 A
110.	HP1013	MOLOKAI HIGH SCHOOL, MOLOKAI			
CONSTRUCT AND EQUIP A FACILITY FOR MOLOKAI HIGH SCHOOL AGRICULTURE PROGRAM					
		CONSTRUCTION			
		EQUIPMENT			
		TOTAL FUNDING	AGS	A	15
					10 A
					5
111.	J22438	MOMILANI ELEMENTARY SCHOOL			
DESIGN AND CONSTRUCTION OF A RETAINING WALL NEXT TO THE LOWER PLAYGROUND					
		DESIGN			
		CONSTRUCTION			
		TOTAL FUNDING	AGS	A	12
					2 A
112.	J22437	MOMILANI ELEMENTARY SCHOOL			
DESIGN AND CONSTRUCTION OF A RETAINING WALL NEXT TO THE BASKETBALL COURT					
		DESIGN			
					8

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CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		CONSTRUCTION TOTAL FUNDING	AGS	A	40 48 A
113.	J22436	MOMILANI ELEMENTARY SCHOOL			
		DESIGN AND CONSTRUCTION OF PARTITIONS TO DIVIDE THREE DOUBLE CLASSROOMS			
		DESIGN			7
		CONSTRUCTION			30
		TOTAL FUNDING	AGS	A	37 A
114.	HP4801	NANAIKAPONO ELEMENTARY SCHOOL			
		PLAN, DESIGN AND CONSTRUCTION OF A STUDENT DROP-OFF AREA INCLUDING CURBING, SIGNS AND PAVING			
		DESIGN			13
		CONSTRUCTION			92
		TOTAL FUNDING	AGS	A	105 A
115.	HP4806	NANAKULI HIGH SCHOOL			
		DESIGN OF FOUR-FOOT HIGH RETAINING WALL, EXTENDING 300 FEET MAUKA FROM NANAKULI HIGH AND NANAKULI ELEMENTARY, BORDERING HALEAKALA AVE			
		DESIGN			12
		TOTAL FUNDING	AGS	A	12 A
116.	HP4805	NANAKULI HIGH SCHOOL			
		PLANS FOR THE RENOVATION AND RESURFACING OF NANAKULI HIGH SCHOOL RUNNING TRACK.			
		PLANS			1
		TOTAL FUNDING	AGS	A	1 A
117.	SP2402	NANAKULI ELEMENTARY SCHOOL			
		DESIGN AND CONSTRUCTION TO REMOVE EXISTING ASPHALT COURT, ENLARGE PLAYGROUND AREA AND CONVERT TO GRASS PLAYING AREA			
		DESIGN			18
		CONSTRUCTION			130
		TOTAL FUNDING	AGS	A	148 A
118.	HP3304	NUUANU ELEMENTARY SCHOOL			
		DESIGN AND INSTALLATION OF SECURITY SCREENS FOR BUILDINGS B, F, G, H AND I			
		DESIGN			5
		CONSTRUCTION			36
		TOTAL FUNDING	AGS	A	41 A
119.	HP0103	PAHOA ELEMENTARY AND HIGH SCHOOL			
		CONSTRUCTION OF RUMBLE STRIPS ON COUNTY ROAD BISECTING THE CAMPUS OF PAHOA HIGH AND ELEMENTARY SCHOOL (KAOHE STREET)			
		CONSTRUCTION			1

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CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
				A	A
		TOTAL FUNDING	AGS		
120. J22443 PALISADES ELEMENTARY SCHOOL					
		DESIGN AND CONSTRUCTION FOR SPRINKLER SYSTEM AND GROUND IMPROVEMENT. CORRECT DANGEROUS STEEP SLOPE IN PLAYGROUND BY CONSTRUCTING A TILE WALL, FILLING IN THE AREA AND PLANTING GRASS OVER FILLED AREA			
		DESIGN			6
		CONSTRUCTION			100
		TOTAL FUNDING	AGS	A	106 A
121. SP0806 BENJAMIN PARKER ELEMENTARY SCHOOL, OAHU					
		DESIGN AND INSTALL SPRINKLER SYSTEMS IN AREAS A, B, C, D, E, AND F			
		DESIGN			5
		CONSTRUCTION			25
		TOTAL FUNDING	AGS	A	30 A
122. JP1733 PAUOA ELEMENTARY SCHOOL					
		DESIGN & CONSTRUCT PLAYCOURT			
		DESIGN			14
		CONSTRUCTION			90
		TOTAL FUNDING	AGS	A	104 A
123. JP2244 PEARL CITY ELEMENTARY SCHOOL					
		DESIGN AND CONSTRUCTION OF PERMANENT WALLS BETWEEN THREE SETS OF THREE ON TWO CLASSROOMS			
		DESIGN			1
		CONSTRUCTION			20
		TOTAL FUNDING	AGS	A	21 A
124. J22431 PEARL CITY HIGHLANDS ELEMENTARY SCHOOL					
		DESIGN AND CONSTRUCTION OF A SECURITY GATE AT THE BACK ENTRANCE OF THE SCHOOL			
		DESIGN			2
		CONSTRUCTION			7
		TOTAL FUNDING	AGS	A	9 A
125. JP2243 PEARL CITY HIGHLANDS ELEMENTARY SCHOOL					
		DESIGN AND CONSTRUCTION OF A DRAINAGE AREA NEAR BUILDING E			
		DESIGN			7
		CONSTRUCTION			50
		TOTAL FUNDING	AGS	A	57 A
126. J22432 PEARL CITY HIGHLANDS ELEMENTARY SCHOOL					
		DESIGN AND IMPROVEMENTS TO THE BASKETBALL COURTS			
		DESIGN			2
		CONSTRUCTION			14
		TOTAL FUNDING	AGS	A	16 A

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
127.	HP4203	PEARLridge ELEMENTARY SCHOOL			
		INSTALLATION OF AN ALARM SYSTEM FOR COMPUTER CLASSROOM.			
		EQUIPMENT			3
		TOTAL FUNDING	AGS	A	3 A
128.	J23464	POHAKEA ELEMENTARY SCHOOL, OAHU			
		PLAN, DESIGN, AND CONSTRUCT A WALL IN CLASSROOMS C-1 AND C-2			
		DESIGN			2
		CONSTRUCTION			13
		TOTAL FUNDING	AGS	A	15 A
129.	J23463	POHAKEA ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCT A WALL IN CLASSROOMS B-3 AND B-4			
		DESIGN			2
		CONSTRUCTION			13
		TOTAL FUNDING	AGS	A	15 A
130.	HP3908	PUUHALE ELEMENTARY SCHOOL			
		PLANNING AND DESIGN OF SOUND PROOFING CLASSROOMS.			
		PLANS			7
		DESIGN			8
		TOTAL FUNDING	AGS	A	15 A
131.	SP2104	RADFORD HIGH SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION OF SPRINKLING SYSTEM AT JOHN VELASCO STADIUM			
		DESIGN			5
		CONSTRUCTION			20
		TOTAL FUNDING	AGS	A	25 A
132.	SP2103	RADFORD HIGH SCHOOL, OAHU			
		DESIGN AND CONSTRUCT BLEACHERS ON JOHN VELASCO STADIUM			
		DESIGN			36
		CONSTRUCTION			150
		TOTAL FUNDING	AGS	A	186 A
133.	SP2006	RADFORD HIGH SCHOOL			
		DESIGN & CONSTRUCTION FOR THE PAVING OF THE PARKING LOT			
		DESIGN			10
		CONSTRUCTION			90
		TOTAL FUNDING	AGS	A	100 A
134.	HP3801	RED HILL ELEMENTARY SCHOOL			
		CONSTRUCTION OF A COVERED WALKWAY			
		CONSTRUCTION			45

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		TOTAL FUNDING	AGS	A	45 A
135.	JP1631	ROOSEVELT HIGH SCHOOL			
		DESIGN AND CONSTRUCTION OF CLASSROOMS IN BUILDING C			
		DESIGN			17
		CONSTRUCTION			200
		TOTAL FUNDING	AGS	A	217 A
136.	JP1631	ROOSEVELT HIGH SCHOOL			
		DESIGN AND CONSTRUCTION FOR SOUNDPROOFING OF THE GYMNASIUM			
		DESIGN			30
		CONSTRUCTION			170
		TOTAL FUNDING	AGS	A	200 A
137.	HP3403	ROOSEVELT HIGH SCHOOL			
		CONSTRUCTION TO INSTALL SCREENS FOR THE LIBRARY AND CLASSROOM E-101			
		CONSTRUCTION			6
		TOTAL FUNDING	AGS	A	6 A
138.	HP3404	ROOSEVELT HIGH SCHOOL			
		DESIGN AND CONSTRUCT A DRAINAGE SYSTEM FOR THE FOOTBALL STADIUM			
		DESIGN			6
		CONSTRUCTION			42
		TOTAL FUNDING	AGS	A	48 A
139.	SP1602	ROOSEVELT HIGH SCHOOL			
		CONSTRUCT FENCE ALONG PROSPECT STREET SIDE OF STEVENSON INTERMEDIATE BASEBALL FIELD			
		DESIGN			4
		CONSTRUCTION			30
		TOTAL FUNDING	AGS	A	34 A
140.	JS1417	ROOSEVELT HIGH SCHOOL			
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A PRESSBOX FACILITY			
		DESIGN			15
		CONSTRUCTION			115
		EQUIPMENT			15
		TOTAL FUNDING	AGS	A	145 A
141.	HP3503	ROYAL ELEMENTARY SCHOOL			
		CONSTRUCT PARTITIONS TO DIVIDE TWO DOUBLE CLASSROOM UNITS INTO SINGLE CLASSROOMS			
		CONSTRUCTION			14
		TOTAL FUNDING	AGS	A	14 A
142.	HP4003	SALT LAKE ELEMENTARY SCHOOL, OAHU			

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		CONSTRUCTION OF SEVEN WALL DIVIDERS AT SALT LAKE ELEMENTARY SCHOOL			
		CONSTRUCTION			70
		TOTAL FUNDING	AGS	A	70 A
143.	SP2004	SALT LAKE ELEMENTARY SCHOOL			
		PLANS, DESIGN, AND CONSTRUCTION OF A TEACHER WORKROOM APPROXIMATE SIZE-35 1/2 FT. X 38 FT. LOCATED BETWEEN THE LIBRARY AND BUILDING C TO PROVIDE A PLACE FOR TEACHERS TO WORK WITHOUT INTERRUPTION.			
		PLANS			5
		DESIGN			5
		CONSTRUCTION			90
		TOTAL FUNDING	AGS	A	100 A
144.	HP1414	SUNSET BEACH ELEMENTARY SCHOOL			
		CONSTRUCT PICNIC TABLES ON SCHOOL CAMPUS			
		CONSTRUCTION			2
		TOTAL FUNDING	AGS	A	2 A
145.	SP0804	WAIAHOLE ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCT A SAFETY FENCE			
		DESIGN			7
		EQUIPMENT			43
		TOTAL FUNDING	AGS	A	50 A
146.	JP0714	WAIALUA HIGH AND INTERMEDIATE SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION OF ROOF EXTENSION TO THE AUTOMOTIVE AND WOODSHOPS			
		DESIGN			10
		CONSTRUCTION			105
		TOTAL FUNDING	AGS	A	115 A
147.	HP1409	WAIALUA ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCT RAIN SHELTER AT BUS PICKUP AND DROP OFF STATION			
		DESIGN			2
		CONSTRUCTION			5
		TOTAL FUNDING	AGS	A	7 A
148.	HP1410	WAIALUA ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION OF A FIRE ALARM SYSTEM FOR CLASSROOMS			
		DESIGN			5
		CONSTRUCTION			15
		TOTAL FUNDING	AGS	A	20 A
149.	HP4905	WAIANAE ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR ADDITIONAL PARKING			
		DESIGN			5

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CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		CONSTRUCTION TOTAL FUNDING	AGS		33 38 A
150.	JP2449	BOYS AND GIRLS CLUB OF WAIANAE			
		TO MATCH PRIVATE FUNDS (2:1 RATIO) FOR CONSTRUCTION OF THE WAIANAE BOYS AND GIRLS CLUB ON THE GROUNDS OF WAIANAE ELEMENTARY SCHOOL. (GRANT-IN-AID)			
		CONSTRUCTION TOTAL FUNDING	AGS		200 200 A
151.	J24492	WAIANAE ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION OF SECURITY SCREEN AT BUILDING N			
		DESIGN CONSTRUCTION TOTAL FUNDING	AGS		1 7 8 A
152.	HP4908	WAIANAE HIGH SCHOOL, OAHU			
		CONSTRUCT AND INSTALL JALOUSIE WINDOWS IN BUILDING B AND BUILDING C			
		CONSTRUCTION TOTAL FUNDING	AGS		10 10 A
153.	J24491	WAIANAE INTERMEDIATE SCHOOL, OAHU			
		PLAN, DESIGN, LAYOUT AND INSTALLATION OF A POP-UP WATER SPRINKLER SYSTEM BEHIND BUILDING B.			
		PLANS DESIGN CONSTRUCTION TOTAL FUNDING	AGS		1 1 9 11 A
154.	JP2243	WAIAU ELEMENTARY SCHOOL			
		DESIGN AND CONSTRUCTION OF A PORTABLE CLASSROOM			
		DESIGN CONSTRUCTION TOTAL FUNDING	AGS		10 100 110 A
155.	HP2408	WAIKIKI ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO BUILDING A			
		DESIGN CONSTRUCTION TOTAL FUNDING	AGS		5 45 50 A
156.	SP1105	WAILUPE VALLEY ELEMENTARY SCHOOL, OAHU			
		PLANS, DESIGN, AND REPAVING OF THE BASKETBALL COURT AT WAILUPE VALLEY ELEMENTARY SCHOOL.			
		PLANS DESIGN CONSTRUCTION	AGS		1 3 46

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		TOTAL FUNDING	AGS	A	50 A
157. SP2109 WAIMALU ELEMENTARY SCHOOL					
DESIGN AND CONSTRUCT SECURITY GATE ON BUILDINGS D & E					
		DESIGN			8
		CONSTRUCTION			16
		TOTAL FUNDING	AGS	A	24 A
158. SP1004 WAIMANALO ELEMENTARY SCHOOL, OAHU					
DESIGN AND CONSTRUCT WALKWAY/RAMP TO CONNECT BUILDINGS E AND N WITH BUILDING Q					
		DESIGN			4
		CONSTRUCTION			27
		TOTAL FUNDING	AGS	A	31 A
159. J23466 WAIPAHU ELEMENTARY SCHOOL, OAHU					
DESIGN AND CONSTRUCTION FOR THE INSTALLATION OF AIR CONDITIONING IN CLASSROOMS I-3, I-4, I-7, AND I-8					
		DESIGN			10
		CONSTRUCTION			15
		TOTAL FUNDING	AGS	A	25 A
160. SP2316 WAIPAHU ELEMENTARY SCHOOL					
DESIGN AND CONSTRUCTION OF A HOLLOW TILE WALL 6' X 256' ALONG BOUNDARY OF ANIANI PLACE					
		DESIGN			7
		CONSTRUCTION			27
		TOTAL FUNDING	AGS	A	34 A
161. HP1106 WAIPAHU HIGH SCHOOL					
DESIGN AND CONSTRUCTION FOR RENOVATION AND EXPANSION OF PHYSICAL EDUCATION/ATHLETICS WEIGHT ROOM AT WAIPAHU HIGH SCHOOL					
		DESIGN			4
		CONSTRUCTION			70
		TOTAL FUNDING	AGS	A	74 A
162. HP4505 WAIPAHU HIGH SCHOOL					
PLAN, DESIGN AND CONSTRUCTION FOR THE EXPANSION OF WEIGHT ROOM.					
		PLANS			2
		DESIGN			3
		CONSTRUCTION			45
		TOTAL FUNDING	AGS	A	50 A
163. SP2315 WAIPAHU INTERMEDIATE SCHOOL, OAHU					
DESIGN AND CONSTRUCTION OF A NEW BELL SYSTEM					
		DESIGN			4
		CONSTRUCTION			31
		TOTAL FUNDING	AGS	A	35 A

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
164.	HP3201	WASHINGTON INTERMEDIATE SCHOOL			
PLAN, DESIGN AND CONSTRUCTION FOR RENOVATIONS AND IMPROVEMENTS TO FACILITIES AND GROUNDS.					
		PLANS		5	
		DESIGN		5	
		CONSTRUCTION		15	
		TOTAL FUNDING	AGS	A	25 A
165.	HP4102	GUS WEBLING ELEMENTARY SCHOOL			
DESIGN AND CONSTRUCTION OF COVERED WALKWAYS					
		DESIGN		7	
		CONSTRUCTION		18	
		TOTAL FUNDING	AGS	A	25 A
166.	HP3808	THIRTY-EIGHTH REPRESENTATIVE DISTRICT SCHOOLS, OAHU			
CONSTRUCTION FOR RENOVATIONS AND IMPROVEMENTS					
		CONSTRUCTION		61	
		TOTAL FUNDING	AGS	A	61 A
167.	SP0606	WHEELER INTERMEDIATE SCHOOL			
DESIGN AND CONSTRUCTION OF A PARKING AREA NEAR THE TENNIS COURTS					
		DESIGN		5	
		CONSTRUCTION		35	
		TOTAL FUNDING	AGS	A	40 A
168.	SP1201	WILSON ELEMENTARY SCHOOL, OAHU			
PURCHASE OF EIGHT CLASSROOM DOORS.					
		EQUIPMENT		13	
		TOTAL FUNDING	AGS	A	13 A
169.	SP1202	WILSON ELEMENTARY SCHOOL, OAHU			
PLANS, DESIGN, AND CONSTRUCTION OF A PARTITION TO CREATE TWO SELF-CONTAINED CLASSROOMS.					
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		8	
		TOTAL FUNDING	AGS	A	10 A
170.	SP1203	WILSON ELEMENTARY SCHOOL, OAHU			
PLANS, DESIGN, AND CONSTRUCTION OF A CHAINLINK FENCE BETWEEN THE SCHOOL AND THE PARK.					
		PLANS		2	
		DESIGN		3	
		CONSTRUCTION		30	
		TOTAL FUNDING	AGS	A	35 A
171.	SP1204	WILSON ELEMENTARY SCHOOL, OAHU			
PLANS, DESIGN, AND CONSTRUCTION OF TERRACING OF					

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		THE MAIN WALKWAY BETWEEN THE DISTRICT OFFICE AND THE ADMINISTRATION BUILDING.			
		PLANS			2
		DESIGN			3
		CONSTRUCTION			15
		TOTAL FUNDING	AGS	A	20 A
172.	SP1205	WILSON ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION OF AN IRON RAILING FOR THE MAIN WALKWAY			
		DESIGN			1
		CONSTRUCTION			1
		TOTAL FUNDING	AGS	A	2 A
		EDN107 - EXCEPTIONAL CHILD PROGRAM			
173.	HP4004	MOANALUA HIGH SCHOOL, OAHU			
		DESIGN OF A RAMP ADDITION FOR THE HANDICAPPED			
		DESIGN			55
		TOTAL FUNDING	AGS	A	55 A
		EDN203 - SCHOOL ADMINISTRATION			
174.	HP3701	DOLE INTERMEDIATE SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR RENOVATIONS TO THE COUNSELOR'S OFFICE IN THE ADMINISTRATION BUILDING			
		DESIGN			10
		CONSTRUCTION			190
		TOTAL FUNDING	AGS	A	200 A
175.	HP2411	JEFFERSON ELEMENTARY SCHOOL, OAHU			
		PLANS AND CONSTRUCTION OF SECURITY SCREENS FOR BUILDING Q.			
		PLANS			3
		CONSTRUCTION			27
		TOTAL FUNDING	AGS	A	30 A
176.	HP1405	HALEIWA ELEMENTARY SCHOOL, OAHU			
		CONSTRUCT AND INSTALL ELECTRICAL OUTLETS AND AIR CONDITIONERS FOR ADMINISTRATION ROOM			
		CONSTRUCTION			3
		EQUIPMENT			7
		TOTAL FUNDING	AGS	A	10 A
177.	HP2403	KAHALA ELEMENTARY SCHOOL			
		DESIGN AND CONSTRUCTION FOR THE EXTENSION OF COVERED WALKWAY FROM THE ADMINISTRATION BUILDING TO BUILDING L			
		DESIGN			1
		CONSTRUCTION			3
		TOTAL FUNDING	AGS	A	4 A

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
178.	HP4803	NANAIKAPONO ELEMENTARY SCHOOL			
DESIGN AND CONSTRUCT A RESTROOM FOR THE EXISTING HEALTH ROOM LOCATED IN THE ADMINISTRATION BUILDING					
		DESIGN			10
		CONSTRUCTION			68
		TOTAL FUNDING	AGS	A	78 A
179.	HP3504	ROYAL ELEMENTARY SCHOOL			
PLANS AND CONSTRUCTION FOR RENOVATIONS TO THE PRINCIPAL'S AND COUNSELOR'S OFFICES.					
		PLANS			2
		CONSTRUCTION			23
		TOTAL FUNDING	AGS	A	25 A
EDN204 - INSTRUCTIONAL MEDIA					
180.	HP4104	ALVAH SCOTT ELEMENTARY SCHOOL			
DESIGN AND CONSTRUCTION FOR THE AIR CONDITIONING SYSTEM FOR THE SCHOOL LIBRARY					
		DESIGN			13
		CONSTRUCTION			93
		TOTAL FUNDING	AGS	A	106 A
181.	SP2107	AIEA INTERMEDIATE SCHOOL			
CONSTRUCTION OF AIR CONDITIONING IN LIBRARY					
		CONSTRUCTION			82
		TOTAL FUNDING	AGS	A	82 A
182.	HP2505	ANUENUE ELEMENTARY SCHOOL, OAHU			
PLANS, DESIGN AND CONSTRUCTION OF SECURITY SCREENING FOR THE SCHOOL LIBRARY.					
		PLANS			1
		DESIGN			1
		CONSTRUCTION			14
		TOTAL FUNDING	AGS	A	16 A
183.	HP3401	CENTRAL INTERMEDIATE SCHOOL			
CONSTRUCTION OF LIBRARY WINDOWS					
		CONSTRUCTION			9
		TOTAL FUNDING	AGS	A	9 A
184.	SP0902	ENCHANTED LAKES ELEMENTARY SCHOOL			
PURCHASE AND INSTALLATION OF A CENTRAL AIR CONDITIONING UNIT FOR THE SCHOOL LIBRARY.					
		PLANS			1
		DESIGN			2
		CONSTRUCTION			28
		EQUIPMENT			3
		TOTAL FUNDING	AGS	A	34 A
185.	SP2005	FARRINGTON HIGH SCHOOL			

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		PLANS FOR A LIBRARY MEDIA CENTER TO INCLUDE A LIBRARY, A MULTI-PURPOSE ROOM, AN INSTRUCTIONAL MATERIALS CENTER, A TEACHER/STUDENT WORKROOM, A CONFERENCE ROOM, COMPUTER LABS, AN AUDIO-VISUAL ROOM, A VIDEO STUDIO AND A DARKROOM.			
		PLANS			25
		TOTAL FUNDING	AGS	A	25 A
186.	HP1304	ILIAHI ELEMENTARY SCHOOL, OAHU			
		INSTALLATION OF AIR CONDITIONING FOR THE LIBRARY.			
		EQUIPMENT			5
		TOTAL FUNDING	AGS	A	5 A
187.	J23461	ILIMA INTERMEDIATE SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR THE INSTALLATION OF AN AIR CONDITIONING SYSTEM FOR THE SCHOOL LIBRARY			
		DESIGN			20
		CONSTRUCTION			150
		TOTAL FUNDING	AGS	A	170 A
188.	HP2409	JEFFERSON ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION OF SECURITY SCREENS AT BUILDING S			
		DESIGN			3
		CONSTRUCTION			17
		TOTAL FUNDING	AGS	A	20 A
189.	SP1003	KAILUA HIGH SCHOOL, OAHU			
		DESIGN AND CONSTRUCT AIR CONDITIONING FOR SCHOOL LIBRARY			
		DESIGN			23
		CONSTRUCTION			155
		TOTAL FUNDING	AGS	A	178 A
190.	JP1223	KALANI HIGH SCHOOL, OAHU			
		PLANS, DESIGN, AND CONSTRUCTION OF AIR CONDITIONING FOR THE LIBRARY.			
		PLANS			5
		DESIGN			5
		CONSTRUCTION			40
		EQUIPMENT			50
		TOTAL FUNDING	AGS	A	100 A
191.	SP1901	KALIHI ELEMENTARY SCHOOL			
		EXTEND EXISTING LIBRARY AT KALIHI ELEMENTARY SCHOOL.			
		PLANS			10
		DESIGN			10
		CONSTRUCTION			250
		EQUIPMENT			7
		TOTAL FUNDING	AGS	A	277 A

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CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
192.	SP1903	KALIHI UKA ELEMENTARY SCHOOL			
		CONSTRUCTION FOR THE LIBRARY EXTENSION			
		CONSTRUCTION			75
		TOTAL FUNDING	AGS	A	75 A
193.	SP0605	KANOELANI ELEMENTARY SCHOOL			
		DESIGN OF A LIBRARY/ADMINISTRATION BUILDING FOR			
		KANOELANI ELEMENTARY SCHOOL			
		DESIGN			74
		TOTAL FUNDING	AGS	A	74 A
194.	JP1733	KAWANANAKOA INTERMEDIATE SCHOOL			
		DESIGN AND CONSTRUCTION OF AN AIR CONDITIONING			
		SYSTEM FOR THE LIBRARY			
		DESIGN			10
		CONSTRUCTION			100
		TOTAL FUNDING	AGS	A	110 A
195.	HP0801	LIHIKAI ELEMENTARY SCHOOL, MAUI			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR			
		THE EXPANSION OF THE SCHOOL'S LIBRARY.			
		PLANS			5
		DESIGN			5
		CONSTRUCTION			75
		EQUIPMENT			70
		TOTAL FUNDING	AGS	A	155 A
196.	HP3407	Likelike ELEMENTARY SCHOOL			
		CLIMATE CONTROL (AIR CONDITIONING) FOR THE			
		SCHOOL LIBRARY			
		CONSTRUCTION			100
		TOTAL FUNDING	AGS	A	100 A
197.	JP1731	LINCOLN ELEMENTARY SCHOOL			
		DESIGN AND CONSTRUCTION FOR LIBRARY			
		RENOVATIONS AND ADDITIONS INCLUDING AIR			
		CONDITIONING			
		DESIGN			50
		CONSTRUCTION			195
		TOTAL FUNDING	AGS	A	245 A
198.	JP1731	MAEMAE ELEMENTARY SCHOOL			
		DESIGN AND CONSTRUCTION FOR RENOVATIONS TO THE			
		SCHOOL LIBRARY. INCLUDES EXTENSION OF THE			
		LIBRARY, CARPETING AND AIR CONDITIONING			
		DESIGN			50
		CONSTRUCTION			125
		TOTAL FUNDING	AGS	A	175 A
199.	JP1427	NOELANI ELEMENTARY SCHOOL			

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		PLANS, DESIGN AND CONSTRUCTION FOR AIR CONDITIONING OF THE SCHOOL LIBRARY.			
		PLANS		5	
		DESIGN		5	
		CONSTRUCTION		140	
		TOTAL FUNDING	AGS	A	150 A
200.	J12252	PALOLO ELEMENTARY SCHOOL, OAHU			
		PLANS, DESIGN, AND CONSTRUCTION OF CENTRALIZED AIR CONDITIONING AND OTHER IMPROVEMENTS FOR THE SCHOOL LIBRARY.			
		PLANS		5	
		DESIGN		5	
		CONSTRUCTION		140	
		TOTAL FUNDING	AGS	A	150 A
201.	SP1603	STEVENSON INTERMEDIATE SCHOOL			
		DESIGN AND CONSTRUCTION TO INSTALL AIR CONDITIONING FOR LIBRARY AND OTHER IMPROVEMENTS TO SCHOOL FACILITIES			
		DESIGN		50	
		CONSTRUCTION		116	
		TOTAL FUNDING	AGS	A	166 A
202.	HP1407	WAIALUA ELEMENTARY SCHOOL, OAHU			
		CONSTRUCTION FOR, AND INSTALLATION OF, CARPETING IN THE LIBRARY TO MINIMIZE NOISE			
		CONSTRUCTION		10	
		TOTAL FUNDING	AGS	A	10 A
203.	HP2206	WAILUPE VALLEY ELEMENTARY SCHOOL, OAHU			
		PLANS AND DESIGN TO EXTEND THE EXISTING LIBRARY FACILITIES AND OTHER IMPROVEMENTS.			
		PLANS		3	
		DESIGN		10	
		TOTAL FUNDING	AGS	A	13 A
204.	JP2345	WAIPAHU INTERMEDIATE SCHOOL, OAHU			
		CONSTRUCTION FOR WAIPAHU INTERMEDIATE SCHOOL LIBRARY			
		CONSTRUCTION		400	
		TOTAL FUNDING	AGS	A	400 A
205.	SP0701	WHEELER ELEMENTARY SCHOOL, OAHU			
		DESIGN OF A SCHOOL LIBRARY			
		DESIGN		150	
		TOTAL FUNDING	AGS	A	150 A
EDN305 - SCHOOL FOOD SERVICES					
206.	SP1502	ALA WAI ELEMENTARY SCHOOL, OAHU			

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		DESIGN AND CONSTRUCTION OF FIVE DOUBLE SCREEN DOORS FOR CAFETERIA			
		DESIGN			1
		CONSTRUCTION			1
		TOTAL FUNDING	AGS	A	2 A
207.	HP3402	CENTRAL INTERMEDIATE SCHOOL			
		CEILING FANS FOR THE CAFETERIA AND AUDITORIUM.			
		EQUIPMENT			10
		TOTAL FUNDING	AGS	A	10 A
208.	HP3505	CENTRAL INTERMEDIATE SCHOOL			
		CONSTRUCTION AND INSTALLATION OF SECURITY SCREENS OVER CAFETERIA WINDOWS			
		CONSTRUCTION			18
		TOTAL FUNDING	AGS	A	18 A
209.	HP3805	FERN ELEMENTARY SCHOOL			
		PLANS, CONSTRUCTION, AND INSTALLATION OF CEILING FANS IN THE CAFETERIA.			
		PLANS			2
		CONSTRUCTION			20
		EQUIPMENT			15
		TOTAL FUNDING	AGS	A	37 A
210.	HP2410	JEFFERSON ELEMENTARY SCHOOL, OAHU			
		PLANS, CONSTRUCTION AND INSTALLATION OF BUTCHER (CEILING) FANS FOR THE CAFETERIA, WHICH INCLUDES THE STUDENT DINING AND KITCHEN AREAS.			
		PLANS			1
		CONSTRUCTION			7
		TOTAL FUNDING	AGS	A	8 A
211.	HP2106	KAMILOIKI ELEMENTARY SCHOOL			
		PLANS, DESIGN AND CONSTRUCTION OF MOVABLE PARTITIONS FOR THE CAFETERIA.			
		PLANS			4
		DESIGN			6
		CONSTRUCTION			60
		TOTAL FUNDING	AGS	A	70 A
212.	SP0807	LAIE ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR EXPANSION AND IMPROVEMENT TO CAFETERIA			
		DESIGN			5
		CONSTRUCTION			20
		TOTAL FUNDING	AGS	A	25 A
213.	JP2244	PEARL CITY ELEMENTARY SCHOOL			
		DESIGN AND CONSTRUCTION OF SECURITY WINDOW SCREENS AND SCREEN DOORS FOR THE CAFETERIA			
		DESIGN			6

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		CONSTRUCTION TOTAL FUNDING	AGS	A	60 66 A
214.	HP4204	PEARL RIDGE ELEMENTARY SCHOOL			
		EQUIPMENT FOR CLIMATE CONTROL AND NOISE ABATEMENT IN CLASSROOMS AND CAFETERIA. EQUIPMENT TOTAL FUNDING	AGS	A	7 7 A
215.	HP3804	SHAFTER ELEMENTARY SCHOOL			
		PLANS, DESIGN, AND CONSTRUCT LOUVERS ON MAUKA WALLS OF CAFETERIA TO IMPROVE VENTILATION. PLANS DESIGN CONSTRUCTION TOTAL FUNDING	AGS	A	2 2 16 20 A
216.	HP1402	SUNSET BEACH ELEMENTARY SCHOOL, OAHU			
		CONSTRUCTION FOR OUTDOOR SECURITY LIGHTS FRONTING CAFETERIA CONSTRUCTION TOTAL FUNDING	AGS	A	4 4 A
217.	HP1302	WAHIAWA ELEMENTARY SCHOOL, OAHU			
		CONSTRUCTION FOR THE RENOVATION OF THE CAFETERIA DISPENSE AREA CONSTRUCTION TOTAL FUNDING	AGS	A	30 30 A
218.	SP2201	WAIAU ELEMENTARY SCHOOL			
		CONSTRUCTION OF AN AREA AND THE RELOCATION OF A CAFETERIA SINK CONSTRUCTION TOTAL FUNDING	AGS	A	4 4 A
219.	SP1303	WAIKIKI ELEMENTARY SCHOOL			
		DESIGN AND CONSTRUCTION TO INSTALL (12) CEILING FANS; SWITCHES AND PANELS DESIGN CONSTRUCTION TOTAL FUNDING	AGS	A	5 23 28 A
EDN407 - PUBLIC LIBRARIES					
220.	JP2347	EWA REGIONAL LIBRARY, OAHU			
		PLANS, DESIGN, CONSTRUCT AND OTHER IMPROVEMENTS FOR THE EWA REGIONAL LIBRARY. PLANS DESIGN CONSTRUCTION TOTAL FUNDING	AGS	A	59 58 175 292 A

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
221.	HP2702	MANOA LIBRARY, OAHU			
		CONSTRUCTION OF A COVERED PATIO FOR THE DELIVERY AREA			
		CONSTRUCTION			18
		TOTAL FUNDING	AGS	A	18 A
222.	SP0705	WAIALUA PUBLIC LIBRARY, OAHU			
		STUDY THE FEASIBILITY OF REPLACING AND RELOCATING WAIALUA PUBLIC LIBRARY FROM ITS CURRENT SITE TO ONE WHICH WOULD MORE READILY SERVE A LARGER MAJORITY OF THE GROWING POPULATION OF THE NORTH SHORE, OAHU.			
		PLANS			60
		TOTAL FUNDING	AGS	A	60 A
UOH102 - ORGANIZED RESEARCH - UOH, MANOA					
223.	HP2803	COLLEGE OF EDUCATION - UH LAB SCHOOL COMPLEX DESIGN			
		DESIGN PHASE I OF THE COMPLEX			
		DESIGN			59
		TOTAL FUNDING	AGS	A	59 A
224.	HP2802	UH LAB SCHOOL GROUNDS RENOVATION COLLEGE OF EDUCATION			
		DESIGN AND CONSTRUCT ADEQUATE DRAINAGE, CONCRETE PAVING, AND LANDSCAPING OF THE AREA BETWEEN BUILDING 3 AND THE MULTI-PURPOSE BUILDING			
		DESIGN			1
		CONSTRUCTION			10
		TOTAL FUNDING	AGS	A	11 A
UOH325 - INSTITUTIONAL SUPPORT - LEEWARD CC					
225.	JP2211	LEEWARD COMMUNITY COLLEGE, OAHU			
		CONSTRUCTION OF MINOR IMPROVEMENTS, INCLUDING THE MODIFICATIONS, REPLACEMENT AND REPAIR OF EXISTING FACILITIES AND EQUIPMENT, INCLUDING THE REPLACEMENT OF AIR CONDITIONING CHILLER WITH ENERGY EFFICIENT EQUIPMENT			
		CONSTRUCTION			
		TOTAL FUNDING	AGS	A	131 A
UOH331 - INSTRUCTION-WINDWARD COMMUNITY COLLEGE					
226.	JP0816	WINDWARD COMMUNITY COLLEGE, OAHU			
		PLANS AND DESIGN FOR RENOVATIONS OF LOKAHI BUILDING.			
		PLANS			25
		DESIGN			100

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		TOTAL FUNDING	AGS	A	125 A

UOH706 - INSTITUTIONAL SUPPORT-WEST OAHU COLLEGE**227. JP2211 WEST OAHU COLLEGE**

CONSTRUCTION OF A PORTABLE BUILDING TO HOUSE
FACULTY OFFICES, MULTI-PURPOSE MEETINGS/
CLASSROOM, COMPUTER CLASSROOM AND A CAREER
CENTER

DESIGN	20
CONSTRUCTION	272
EQUIPMENT	12
TOTAL FUNDING	304 A

CULTURE AND RECREATION**AGS881 - PERFORMING & VISUAL ARTS EVENTS****1. SP1302 HONOLULU COMMUNITY THEATRE (HCT), OAHU**

REPAIR SHATTERED WATER MAIN LINE PLUS OTHER
RENOVATIONS AND IMPROVEMENTS. (GRANT-IN-AID)

PLANS	9
DESIGN	10
CONSTRUCTION	12
TOTAL FUNDING	31 A

LNR806 - HERITAGE & RECREATION PARKS**2. HP1605 HEEIA STATE PARK, OAHU**

PLANNING FOR IMPROVEMENTS TO FACILITIES AND
GROUNDS.

PLANS	25
TOTAL FUNDING	25 A

3. JS1416 HAWAII NATURE CENTER

PURCHASE REAL PROPERTY (TMK 2-5-20-7) INCLUDING
LAND (8,000 SQ. FT.) AND A A BUILDING. THE PROPERTY IS
LOCATED AT THE ENTRANCE TO THE MAKIKI STATE
FOREST RESERVE. (GRANT-IN-AID)

LAND	325
TOTAL FUNDING	325 A

4. HP3501 KAKAAKO WATERFRONT PARK

PLANNING AND CONSTRUCTION FOR THE DEVELOPMENT
OF A WATERFRONT PARK AND RECREATIONAL FACILITIES
ON THE FORT ARMSTRONG-KEWALO PENINSULA.

PLANS	20
CONSTRUCTION	214
TOTAL FUNDING	234 A

5. HP0505 KEALAKEKUA BAY, HAWAII

PLANS, DESIGN AND CONSTRUCTION OF TWO MEMORIALS
(ONE EACH TO BE LOCATED ON THE KAAWALOA SIDE AND

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		THE OTHER ON THE NAPOOPOO SIDE) FOR THE HAWAIIANS WHO DIED AT KEALAKEKUA BAY IN 1779.			
		PLANS		10	
		DESIGN		10	
		CONSTRUCTION		20	
		TOTAL FUNDING	LNR	A	40 A
6.	HP2907	KUKANILOKO			
		ADDITIONAL FUNDS FOR LAND ACQUISITION.			
		LAND		50	
		TOTAL FUNDING	LNR	A	50 A
7.	SP0816	KAHALUU REGIONAL PARK			
		PLANNING AND DESIGN OF KAHALUU REGIONAL PARK.			
		PLANS		4	
		DESIGN		15	
		TOTAL FUNDING	LNR	A	19 A
8.	SP0301	LAPAKAHI PARK			
		PLANS, DESIGN AND CONSTRUCTION OF A TOURIST VISITOR CENTER AT LAPAKAHI PARK.			
		PLANS		5	
		DESIGN		5	
		CONSTRUCTION		40	
		TOTAL FUNDING	LNR	A	50 A
9.	HP4909	MAKAHA SURFSIDE, OAHU			
		CONSTRUCT AND ENCLOSE PUBLIC BEACH PARKING AREA WITH GATE			
		CONSTRUCTION		35	
		TOTAL FUNDING	LNR	A	35 A
10.	SP0305	MOOKINI LUAKINI HEIAU			
		PLANS, DESIGN AND CONSTRUCTION OF IMPROVEMENTS TO THE MOOKINI HEIAU LOCATED IN LAPAKAHI STATE PARK. (GRANT-IN-AID)			
		PLANS		1	
		DESIGN		3	
		CONSTRUCTION		41	
		TOTAL FUNDING	LNR	A	45 A
11.	SP2409	MOOKINI LUAKINI HEIAU			
		PLANS, DESIGN AND CONSTRUCTION FOR A GUARD HOUSE. (GRANT-IN-AID)			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		8	
		TOTAL FUNDING	LNR	A	10 A
12.	HP1019	MALA WHARF, LAHAINA, MAUI			
		DESIGN AND CONSTRUCTION OF A PARK AT MALA WHARF, LAHAINA, MAUI			
		DESIGN		1	

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		CONSTRUCTION			5
		TOTAL FUNDING	LNR	A	6 A
13.	HP0504	OOMA-KONA, HAWAII			
		PLANS, DESIGN AND CONSTRUCTION OF TWO COMPOST TOILETS NEAR PINE TREES BEACH (OOMA-KONA), HAWAII.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			8
		TOTAL FUNDING	LNR	A	10 A
14.	JP0510	MOLOKAI MUSEUM AND CULTURAL CENTER, KALAE, MOLOKAI			
		DESIGN AND CONSTRUCTION FOR THE MOLOKAI MUSEUM AND CULTURAL CENTER			
		DESIGN			2
		CONSTRUCTION			75
		TOTAL FUNDING	LNR	A	77 A
15.	HP0404	VISITORS CENTER COMPLEX, AKAKA FALLS, HAWAII			
		PLANNING, DESIGN AND CONSTRUCTION OF A VISITORS CENTER COMPLEX AT AKAKA FALLS, HAWAII.			
		PLANS			5
		DESIGN			5
		CONSTRUCTION			40
		TOTAL FUNDING	LNR	A	50 A
16.	HP0406	VISITORS CENTER COMPLEX, WAIPIO VALLEY, HAWAII			
		PLANNING, DESIGN AND CONSTRUCTION OF A VISITORS CENTER COMPLEX AT WAIPIO VALLEY, HAWAII.			
		PLANS			5
		DESIGN			5
		CONSTRUCTION			40
		TOTAL FUNDING	LNR	A	50 A
17.	SP1006	WAIMANALO BAY STATE RECREATION AREA, OAHU			
		INCREMENTAL DEVELOPMENT OF BEACH PARK FOR CAMPING AND PICNICKING			
		DESIGN			30
		CONSTRUCTION			170
		TOTAL FUNDING	LNR	A	200 A

TRN801 - OCEAN-BASED RECREATION

18. HP3001 ALA WAI BOAT HARBOR IMPROVEMENTS

PLANS, DESIGN, CONSTRUCTION AND INSTALLATION OF
SHOWER/TOILET FACILITIES AT ALA WAI BOAT HARBOR
TO SERVICE WORK DOCKS F AND G AND TRAILER BOAT
LAUNCHING AREAS.

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		PLANS			5
		DESIGN			5
		CONSTRUCTION			80
		EQUIPMENT			10
		TOTAL FUNDING	TRN	A	100 A
19.	HP3002	ALA WAI BOAT HARBOR, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND INSTALLATION OF EQUIPMENT TO IMPROVE ALA WAI BOAT HARBOR.			
		PLANS			3
		DESIGN			10
		CONSTRUCTION			92
		EQUIPMENT			25
		TOTAL FUNDING	TRN	A	130 A
20.	SP1510	ALA WAI YACHT HARBOR			
		PLANTING, LANDSCAPING, AND SPRINKLERS AROUND DOCK AREA(S) AT ALA WAI YACHT HARBOR			
		DESIGN			5
		CONSTRUCTION			45
		TOTAL FUNDING	TRN	A	50 A
21.	JP0510	EAST END MOLOKAI BOAT RAMP			
		DESIGN A BOAT RAMP FOR ACCESS TO THE OCEAN IN THE EAST END OF MOLOKAI			
		DESIGN			15
		TOTAL FUNDING	TRN	A	15 A
22.	JP0816	HEEIA KEA BOAT HARBOR, OAHU			
		EXPANSION AND CONSTRUCTION OF NEEDED IMPROVEMENTS TO HEEIA KEA PIER.			
		PLANS			5
		DESIGN			5
		CONSTRUCTION			65
		TOTAL FUNDING	TRN	A	75 A
23.	SP0814	KAHALUU BOAT RAMP			
		PLANNING AND DESIGN FOR A BOAT RAMP ADJACENT TO THE MOUTH OF THE KAHALUU FLOOD LAGOON.			
		PLANS			10
		DESIGN			10
		TOTAL FUNDING	TRN	A	20 A
24.	JP1020	KAILUA BOAT RAMP, OAHU			
		PLANS & DESIGN FOR IMPROVEMENTS TO THE BOAT RAMP.			
		PLANS			20
		DESIGN			20
		TOTAL FUNDING	TRN	A	40 A
25.	JP0510	MALA WHARF, MAUI			

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ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		PLANS, DESIGN AND RENOVATION OF MALA WHARF IN LAHAINA, MAUI.			
		PLANS			5
		DESIGN			6
		CONSTRUCTION			145
		TOTAL FUNDING	TRN	A	156 A
26.	JP0510	OCEAN RECREATION MANAGEMENT PLAN, WEST MAUI			
		PLANS, DESIGN AND EQUIPMENT NEED TO ASSIST IN THE IMPLEMENTATION OF THE STATEWIDE OCEAN RECREATION MANAGEMENT PLAN.			
		PLANS			1
		CONSTRUCTION			3
		EQUIPMENT			7
		TOTAL FUNDING	TRN	A	11 A

PUBLIC SAFETY

LNR810 - PREVENTION OF NATURAL DISASTERS

1. JP1507 CONTROL FLOODING AND DRAINAGE, WAHINEPEE STREET, LAIE, OAHU

DESIGN AND CONSTRUCT NEW DRAIN SYSTEM TO PROPOSED NEW STREAM CHANNEL TO ALLEVIATE PONDING PROBLEM AT THE SUMP OF WAHINEPEE STREET

DESIGN		12
CONSTRUCTION		100
TOTAL FUNDING	LNR	A

112 A

DEF110 - AMELIORATION OF PHYSICAL DISASTERS

2. HP1016 CIVIL DEFENSE CENTER, WEST MAUI

DESIGN FOR CIVIL DEFENSE CENTER, WEST MAUI

DESIGN		2
TOTAL FUNDING	AGS	A

2 A

3. HP1018 CIVIL DEFENSE SIREN, MOLOKAI

DESIGN FOR CIVIL DEFENSE SIREN, KUALAPUU, MOLOKAI

DESIGN		5
TOTAL FUNDING	AGS	A

5 A

GOVERNMENT-WIDE SUPPORT

LNR101 - PUBLIC LANDS MANAGEMENT

1. HP2004 WAIKUPANAHA STREET IMPROVEMENTS, WAIMANALO, OAHU

PLANS, DESIGN AND CONSTRUCTION TO PAVE UNIMPROVED PORTIONS OF WAIKUPANAHA STREET AND ADJACENT ROADS.

PLANS		4
DESIGN		4
CONSTRUCTION		64

CAPITAL IMPROVEMENT PROJECTS

APPROPRIATIONS
(IN 000'S)

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		TOTAL FUNDING	LNR	A	72 A

2. SP0308 HANA MEDICAL CENTER

ACQUISITION OF LAND FOR HANA MEDICAL CENTER.

LAND		80
TOTAL FUNDING	LNR	A
		80 A

AGS221 - CONSTRUCTION

3. HP2003 BLANCHE POPE ELEMENTARY SCHOOL, OAHU

PURCHASE AND INSTALLATION OF PLAYGROUND EQUIPMENT.

EQUIPMENT		10
TOTAL FUNDING	AGS	A
		10 A

4. SP2503 DAGS LIHUE BASEYARD, KAUAI

PLANNING AND DESIGN OF NEW BUILDING FOR DAGS' LIHUE BASEYARD, KAUAI.

PLANS		10
LAND		25
TOTAL FUNDING	AGS	A
		35 A

5. HP2001 KEOLU ELEMENTARY SCHOOL, OAHU

PLANS, DESIGN AND CONSTRUCTION OF SCREENS FOR BUILDINGS A, B, C AND BOTTOM FLOOR.

PLANS		5
DESIGN		5
CONSTRUCTION		98
TOTAL FUNDING	AGS	A
		108 A

6. SP1101 KOKO HEAD ELEMENTARY SCHOOL, OAHU

PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR CONSTRUCTION OF A CUSTODIAN COTTAGE AT KOKO HEAD ELEMENTARY SCHOOL.

PLANS		5
DESIGN		5
CONSTRUCTION		45
EQUIPMENT		5
TOTAL FUNDING	AGS	A
		60 A

7. JP1736 LANAKILA SENIOR CENTER RENOVATION PROJECT

PLANS, DESIGN, CONSTRUCTION, INSTALLATION AND EQUIPMENT FOR AN AIR CONDITION SYSTEM AND CEILING FANS.

PLANS		1
DESIGN		1
CONSTRUCTION		98
EQUIPMENT		17
TOTAL FUNDING	AGS	A
		117 A

AGS233 - BUILDING REPAIRS AND ALTERATIONS

8. HP2002 WAIMANALO ELEMENTARY SCHOOL, OAHU

ACT 2**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		CONSTRUCT A HANDICAP BARRIER-FREE WALKWAY/RAMP TO CONNECT BUILDINGS E AND N WITH BUILDING Q			
		CONSTRUCTION			10
		TOTAL FUNDING	AGS	A	10 A
9.	SP1509	WAIKIKI COMMUNITY CENTER, OAHU			
		DESIGN AND CONSTRUCTION FOR IMPROVEMENT OF THE WAIKIKI COMMUNITY CENTER TO INCLUDE RE-ROOFING OF ADMINISTRATION AND HEALTH BUILDINGS, AND RECONSTRUCTION OF PARKING AREA INCLUDING DRAINAGE			
		DESIGN			7
		CONSTRUCTION			95
		TOTAL FUNDING	AGS	A	102 A
10.	SP1507	WAIKIKI COMMUNITY CENTER, OAHU			
		DESIGN AND CONSTRUCTION TO RENOVATE THE EDUCATION BUILDING AT THE WAIKIKI COMMUNITY CENTER TO PROVIDE INFANT-TODDLER CHILD CARE SERVICES			
		DESIGN			14
		CONSTRUCTION			85
		TOTAL FUNDING	AGS	A	99 A
SUB201 - CITY & COUNTY OF HONOLULU					
11.	HP3406	BERETANIA COMMUNITY CENTER			
		CONSTRUCT AND INSTALL TWO CEILING FANS			
		CONSTRUCTION			1
		EQUIPMENT			1
		TOTAL FUNDING	CCH	A	2 A
12.	HP4209	NEAL BLAISDELL PARK			
		CONSTRUCTION OF ADDITIONAL PARKING STALLS. (GRANT-IN-AID)			
		CONSTRUCTION			150
		TOTAL FUNDING	CCH	A	150 A
13.	SP2411	BUS STOP AREA LIGHTS, NANAKULI			
		LIGHTING FOR BUS PICK UP AREA AT THE PARKING LOT FRONTING BUTLER BUILDING, NANAKULI, HAWAII			
		DESIGN			7
		CONSTRUCTION			23
		TOTAL FUNDING	CCH	A	30 A
14.	HP2503	FIRE PROTECTION PROGRAM (BOARD OF WATER SUPPLY), OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR REPLACEMENT OF WATER PIPES, INCLUDING INSTALLATION OF FIRE HYDRANTS ALONG HANAKEALOHA PLACE AND HOLOMUA PLACE IN PALOLO VALLEY, OAHU. (GRANT-IN-AID)			
		PLANS			8
		DESIGN			8

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		CONSTRUCTION TOTAL FUNDING	CCH		60 76 A
15. HP2103 KAMILOIKI COMMUNITY PARK					
		CONSTRUCTION FOR VARIOUS IMPROVEMENTS INCLUDING NEW BALL FIELDS. (GRANT-IN-AID)			
		CONSTRUCTION TOTAL FUNDING	CCH	A	50 50 A
16. J18361 KAPALAMA CANAL, OAHU					
		PLANS, DESIGN AND CONSTRUCTION OF CANAL IMPROVEMENTS AND LANDSCAPING.			
		PLANS			30
		DESIGN			110
		CONSTRUCTION			178
		TOTAL FUNDING	CCH	A	318 A
17. HP2101 KOKO HEAD COMMUNITY PARK, OAHU					
		PLANS, DESIGN AND CONSTRUCTION FOR THE RECONSTRUCTION OF BALL FIELDS AND COMFORT STATION. (MATCHING CITY REQUIREMENT)			
		PLANS			2
		DESIGN			3
		CONSTRUCTION			42
		TOTAL FUNDING	CCH	A	47 A
18. HP2102 KOKO HEAD DISTRICT PARK, OAHU					
		CONSTRUCTION FOR NEW BALL FIELDS. (MATCHING CITY REQUIREMENT)			
		CONSTRUCTION TOTAL FUNDING	CCH	A	50 50 A
19. SP1106 KOKO HEAD PLAYGROUND PARK, OAHU					
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR RENOVATION OF RESTROOM FACILITIES AT KOKO HEAD PLAYGROUND PARK.			
		PLANS			5
		DESIGN			5
		CONSTRUCTION			60
		EQUIPMENT			5
		TOTAL FUNDING	CCH	A	75 A
20. JP1836 LANAKILA PLAYGROUND SWIMMING POOL, OAHU					
		PLANS, DESIGN AND CONSTRUCTION OF A SWIMMING POOL AT LANAKILA PLAYGROUND.			
		PLANS			20
		DESIGN			38
		CONSTRUCTION			75
		TOTAL FUNDING	CCH	A	133 A
21. HP3203 MCCULLY RECREATION CENTER, OAHU					

ACT 2**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		PLANS AND CONSTRUCTION FOR A NEW GYMNASIUM FLOOR. (GRANT-IN-AID)			
		PLANS			3
		CONSTRUCTION			47
		TOTAL FUNDING	CCH	A	50 A
22.	HP3204	MCCULLY RECREATION CENTER, OAHU			
		PLANS AND CONSTRUCTION FOR A NEW ROOF. (GRANT-IN-AID)			
		PLANS			5
		CONSTRUCTION			30
		TOTAL FUNDING	CCH	A	35 A
23.	HP3807	MOANALUA NEIGHBORHOOD PARK			
		PLAN AND INSTALL A SIX-FOOT HIGH CHAIN LINK FENCE.			
		PLANS			3
		CONSTRUCTION			23
		TOTAL FUNDING	CCH	A	26 A
24.	HP3207	MOILIILI COMMUNITY CENTER			
		PLANS AND CONSTRUCTION FOR REPLACING/REINFORCING FLOOR SUPPORTS AND BEAMS. (GRANT-IN-AID)			
		PLANS			3
		CONSTRUCTION			17
		TOTAL FUNDING	CCH	A	20 A
25.	JP1529	MOILIILI COMMUNITY CENTER			
		PLANS, DESIGN AND CONSTRUCTION FOR REPAIRS TO TERMITE DAMAGED CEILINGS, WALLS, AND SUPPORTS. (GRANT-IN-AID)			
		PLANS			3
		DESIGN			4
		CONSTRUCTION			61
		TOTAL FUNDING	CCH	A	68 A
26.	HP1801	OMAO STREAM FLOOD CONTROL PROJECT, MAUNAWILI, OAHU			
		DESIGN AND CONSTRUCTION FOR FLOOD CONTROL IMPROVEMENTS FOR OMAO STREAM			
		DESIGN			20
		CONSTRUCTION			230
		TOTAL FUNDING	CCH	A	250 A
27.	HP4210	PEARL CITY RECREATION CENTER			
		CONSTRUCTION OF ADDITIONAL PARKING STALLS. (GRANT-IN-AID)			
		CONSTRUCTION			40
		TOTAL FUNDING	CCH	A	40 A
28.	SP0813	WINDWARD CIVIC CENTER			
		PLANNING AND DESIGN FOR WINDWARD CIVIC CENTER.			

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CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		PLANS			25
		DESIGN			25
		TOTAL FUNDING	CCH	A	50 A
29.	HP2405	VARIETY SCHOOL			
		PLANS AND CONSTRUCTION FOR EXTERIOR/INTERIOR PAINTING OF A SCHOOL BUILDING. (GRANT-IN-AID)			
		PLANS			3
		CONSTRUCTION			21
		TOTAL FUNDING	CCH	A	24 A
30.	HP2406	VARIETY SCHOOL			
		PLANS, CONSTRUCTION AND INSTALLATION OF CLASSROOM CARPETING. (GRANT-IN-AID)			
		PLANS			1
		CONSTRUCTION			2
		TOTAL FUNDING	CCH	A	3 A
31.	HP2407	VARIETY SCHOOL			
		DESIGN AND CONSTRUCTION OF A SLIDING BOARD FOR THE PLAYGROUND. (GRANT-IN-AID)			
		DESIGN			1
		CONSTRUCTION			1
		TOTAL FUNDING	CCH	A	2 A
SUB301 - COUNTY OF HAWAII					
32.	SP1101	FARMER'S MARKET, HAWAII			
		PLANNING WITH SITE SELECTION, FOR A FARMER'S MARKET TO DISPLAY FOR SALE AGRICULTURAL PRODUCTS AND HAWAII ISLANDS PRODUCED ARTS AND CRAFTS, KONA, HAWAII. (GRANT-IN-AID)			
		PLANS			38
		TOTAL FUNDING	COH	A	38 A
33.	SP0111	HAWAIIAN BEACHES COMMUNITY PATROL, PAHOA, HAWAII			
		GRANT-IN-AID SUBSIDY TO THE HUI KAHAKAI COMMUNITY ASSOCIATION'S HAWAIIAN BEACHES COMMUNITY PATROL VOLUNTEER ORGANIZATION			
		CONSTRUCTION			6
		TOTAL FUNDING	COH	A	6 A
34.	HP0402	HOMESTEAD ROADS, HAWAII			
		PLANS, DESIGN, AND CONSTRUCTION OF HOMESTEAD ROADS.			
		PLANS			1
		DESIGN			1
		CONSTRUCTION			13
		TOTAL FUNDING	COH	A	15 A
35.	SP0304	HONOKAA FENCE			

ACT 2**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		PLANS, DESIGN AND CONSTRUCTION OF A CHAIN LINK FENCE ALONG THE BOUNDARY OF THE SENIOR CITIZEN CENTER IN HONOKAA.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		3	
		TOTAL FUNDING	COH	A	5 A
36.	HP0201	ISLAND OF HAWAII - AQUATIC FACILITIES			
		PLANS, DESIGN, CONSTRUCTION, AND INSTALLATION OF EQUIPMENT FOR HEATING THE HANDICAPPED AND DISABLED PROGRAMS.			
		PLANS		5	
		DESIGN		5	
		CONSTRUCTION		75	
		EQUIPMENT		40	
		TOTAL FUNDING	COH	A	125 A
37.	SP0309	KEALAKEHE SPORTS COMPLEX			
		PLANNING FOR A NEW SPORTS COMPLEX AT KEALAKEHE, HAWAII.			
		PLANS		100	
		TOTAL FUNDING	COH	A	100 A
38.	JP0105	KONAWAENA SCHOOL ROAD IMPROVEMENTS, HAWAII			
		PLANNING, LAND ACQUISITION, DESIGN AND CONSTRUCTION FOR ADDITIONAL RIGHT-OF-WAY AND ACCELERATION LANES ON HAWAII BELT ROAD, FOR KONAWAENA SCHOOL ACCESS ROAD, TO WIDEN ROAD TO CREATE LEFT TURN POCKETS, KONA, HAWAII.			
		PLANS		1	
		LAND		75	
		DESIGN		1	
		CONSTRUCTION		60	
		TOTAL FUNDING	COH	A	137 A
39.	HP0404	KULAIMANU RECREATIONAL COMPLEX, HAWAII			
		PLANS AND CONSTRUCTION FOR THE DEVELOPMENT OF A RECREATIONAL COMPLEX AT KULAIMANU PARK, HAWAII.			
		PLANS		25	
		CONSTRUCTION		25	
		TOTAL FUNDING	COH	A	50 A
40.	SP0110	MUNICIPAL GOLF COURSE, KEALAKEHE, NORTH KONA, HAWAII COUNTY			
		PLANS FOR A MUNICIPAL GOLF COURSE IN THE KEALAKEHE COMMUNITY DEVELOPMENT PROJECT, NORTH KONA, HAWAII.			
		PLANS		50	
		TOTAL FUNDING	COH	A	50 A
41.	HP0503	OLD KONA AIRPORT PARK, HAWAII			

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
		PLANS, DESIGN AND CONSTRUCTION OF AN ALL-WEATHER TRACK AT THE OLD KONA AIRPORT PARK.			
		PLANS			2
		DESIGN			2
		CONSTRUCTION			146
		TOTAL FUNDING	COH	A	150 A
42.	HP0203	ONEKAHAKA BEACH			
		CONSTRUCTION FOR PARKING IMPROVEMENTS			
		CONSTRUCTION			75
		TOTAL FUNDING	COH	A	75 A
43.	SP1805	PUAINALO STREET EXTENSION PROJECT, HAWAII			
		CONSTRUCT TWO (2) ADDITIONAL LANES BETWEEN KANOELIHUA AVENUE AND KOMOHANA STREET			
		CONSTRUCTION			20
		TOTAL FUNDING	COH	A	20 A
44.	HP0202	ISLAND OF HAWAII - VETERAN'S CEMETERY			
		PLANS, CONSTRUCTION AND EQUIPMENT FOR RESTROOMS, AND PAVILION.			
		PLANS			5
		CONSTRUCTION			100
		EQUIPMENT			7
		TOTAL FUNDING	COH	A	112 A
45.	JP0101	VOLCANO COMMUNITY CENTER PARKING LOT, HAWAII			
		DESIGN AND CONSTRUCTION FOR ASPHALT PAVEMENT OF THE PARKING LOT AT VOLCANO COMMUNITY CENTER, PUNA, HAWAII			
		DESIGN			6
		CONSTRUCTION			65
		TOTAL FUNDING	COH	A	71 A
46.	HP0101	WATER SYSTEM IMPROVEMENTS AND DEVELOPMENTS, HAWAII			
		INCREMENTAL DEVELOPMENT OF: (a) KALAPANA-KAIMU WATERLINE PHASE IV; (b) KAPOHO-POHIKI WATER SYSTEM; AND (c) KEAAU-PAHOA TRUNKLINE			
		CONSTRUCTION			140
		TOTAL FUNDING	COH	A	140 A
47.	HP0106	WRIGHT ROAD FLOOD PREVENTION			
		PLANS, LAND, DESIGN AND CONSTRUCTION OF FLOOD WATER CONTROL IMPROVEMENTS.			
		PLANS			1
		LAND			21
		DESIGN			1
		CONSTRUCTION			10
		TOTAL FUNDING	COH	A	33 A

SUB401 , COUNTY OF MAUI

ACT 2**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
48.	HP0702	DAY CARE CENTER AT WAILUKU, MAUI			
PLANS AND DESIGN FOR A MULTI-USE DAY CARE CENTER ON MAUI.					
	PLANS			5	
	DESIGN			5	
	TOTAL FUNDING		COM		A
49.	JP0407	KULA COMMUNITY PARK			
LAND PURCHASE FOR PROPERTY ADJACENT TO KULA ELEMENTARY SCHOOL FOR SCHOOL PLAYGROUND AND COMMUNITY PARK USE.					
	LAND				5
	TOTAL FUNDING		COM		A
50.	JP0510	LAHAINA COMMUNITY SWIMMING POOL, MAUI			
DESIGN AND CONSTRUCT A COMMUNITY SWIMMING POOL IN LAHAINA, MAUI					
	DESIGN			300	
	CONSTRUCTION			300	A
	TOTAL FUNDING		COM		A
51.	HP1004	PALAAU ROAD AND OTHER ROADWAYS, MOLOKAI			
DESIGN AND CONSTRUCTION OF PALAAU ROAD AND OTHER ROADWAYS					
	DESIGN			10	
	CONSTRUCTION			10	
	TOTAL FUNDING		COM		A
52.	HP1017	EMERGENCY HEALTH CENTER, MAUI			
EQUIPMENT FOR EMERGENCY MEDICAL CENTER, LAHAINA, MAUI.					
	EQUIPMENT			2	
	TOTAL FUNDING		COM		A
53.	SP0401	UP COUNTRY COMMUNITY CENTER, MAUI			
DESIGN AND CONSTRUCTION OF UP COUNTRY COMMUNITY CENTER, PUKALANI. TO MATCHED BY THE COUNTY OF MAUI					
	DESIGN			50	
	CONSTRUCTION			450	
	TOTAL FUNDING		COM		A
SUB501 - COUNTY OF KAUAI					
54.	HP5004	ASSOCIATION OF RETARDED CITIZENS OF KAUAI, LIHUE, KAUAI			
CONSTRUCTION OF TWO RECREATION ROOMS IN THE NEW TRAINING CENTER. (GRANT-IN-AID)					
	CONSTRUCTION			40	
	EQUIPMENT			20	
	TOTAL FUNDING		COK		A
				60	A

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 1987-88 F	FISCAL M YEAR O 1988-89 F
55.	JP2550	KAUAI ECONOMIC OPPORTUNITY, INC., KAUAI			
		CONSTRUCTION OF A NEW OFFICE BUILDING FOR KAUAI ECONOMIC OPPORTUNITY. (GRANT-IN-AID)			
		CONSTRUCTION			350
		TOTAL FUNDING	COK	A	350 A
56.	SP2509	KAUAI RACEWAY PARK, MANA, KAUAI			
		PAVING OF ACCESS ROAD TO PARK AREA AND RACING VEHICLES' PIT AREA. (GRANT-IN-AID)			
		CONSTRUCTION			50
		TOTAL FUNDING	COK	A	50 A
57.	SP2506	LIHUE SENIOR CENTER COMPLEX, KAUAI			
		CONSTRUCTION OF A SENIOR CENTER COMPLEX AT THE LIHUE NEIGHBORHOOD CENTER, KAUAI			
		CONSTRUCTION			12
		TOTAL FUNDING	COK	A	12 A
58.	JP2550	VIDINHA STADIUM LIGHTS, LIHUE, KAUAI			
		REPLACEMENT OF VIDINHA STADIUM'S FIELD LIGHTS, KAUAI			
		CONSTRUCTION			70
		EQUIPMENT			80
		TOTAL FUNDING	COK	A	150 A
59.	HP5007	LIHUE NEIGHBORHOOD CENTER, KAUAI			
		CONSTRUCTION OF A NEW BUILDING FOR THE LIHUE NEIGHBORHOOD CENTER			
		CONSTRUCTION			68
		TOTAL FUNDING	COK	A	68 A
60.	JP2551	WILCOX BEACH PROPERTY, POIPU BEACH ROAD, KOLOA, KAUAI			
		LAND ACQUISITION OF PRIVATE PROPERTY TO ASSIST THE COUNTY OF KAUAI TO EXPAND POIPU BEACH PARK.			
		LAND			50
		TOTAL FUNDING	COK	A	50 A

SECTION 3. The appropriations and authorizations in section 2 of this Act include land acquisition, plans, design, site preparation, improvements to land, construction, equipment, and necessary off-site improvements.

SECTION 4. Where an agency is able to secure funds or other property from private organizations or individuals, to be expended or utilized in connection with any program authorized by this Act, the governor, or agency with the governor's approval, shall have the power to enter into each undertaking.

SECTION 5. If the State should assume direct operation of any nongovernmental agency receiving state funds under the provisions of this Act, all such funds shall constitute a credit to the State against the costs of acquiring all or any

ACT 2

portion of the property, real, personal, or mixed, or such nongovernmental agency. The credit shall be applicable regardless of when such acquisition takes place.

SECTION 6. Any law or any provision of this Act to the contrary notwithstanding, all authorizations for capital improvement projects made for fiscal year 1988-89 which are unencumbered as of June 30, 1990, shall lapse as of that date; provided that the lapsing date shall not apply to projects necessary to qualify for federal aid financing and reimbursement if the legislature redetermines that such projects are essential.

SECTION 7. Act 347, Session Laws of Hawaii 1986, Section 2, Item EDN 105-187, is amended to read as follows:

“187. HP4208 Pearl Ridge Elementary School, Oahu

[DESIGN OF COVERED WALKWAY.]

PLANNING, DESIGN AND CONSTRUCTION OF VARIOUS FACILITIES AND CAMPUS IMPROVEMENTS.

DESIGN				34
TOTAL FUNDING	AGS		C	34 C”

SECTION 8. Act 217, Session Laws of Hawaii 1987, Section 2, is amended to read as follows:

(1) By amending Item SUB 601-8 to read:

“8. SP0705 KAHUKU HOSPITAL, OAHU.

PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A MAMMOGRAPHY AND DIAGNOSTIC ULTRASOUND FACILITY.

GRANTS-IN-AID.

PLANS		2	
DESIGN		3	
CONSTRUCTION		25	
EQUIPMENT		85	
TOTAL FUNDING	HTH	115	C

(2) By amending Item EDN 105-178 to read:

“178. HP2803 PEARLRIDGE ELEMENTARY SCHOOL, OAHU
[DESIGN AND CONSTRUCTION OF COVERED WALKWAY FROM BUILDING C TO BUILDINGS H AND J.]

PLANNING, DESIGN AND CONSTRUCTION OF VARIOUS FACILITIES AND CAMPUS IMPROVEMENTS.

DESIGN		296	
TOTAL FUNDING	AGS	296	C

(3) By amending Item EDN 105-193 to read:

“193. HP1303 WAHIWA INTERMEDIATE SCHOOL, OAHU.
[ADDITIONAL] DESIGN AND CONSTRUCTION FUNDS FOR A COVERED PLAYCOURT.

DESIGN		24	
CONSTRUCTION		[124]	100
TOTAL FUNDING	AGS	124	C

(4) By amending EDN 105-200 to read:

“200. SP0706 WAIALUA HIGH SCHOOL, OAHU.
LAND ACQUISITION [OF 5 ACRES OF LAND FROM CASTLE AND COOKE MAUKA OF THE CAMPUS FOR], DESIGN, AND CONSTRUCTION OF A BASEBALL FIELD.

LAND		[138]	69
DESIGN			7
CONSTRUCTION			62

TOTAL FUNDING

AGS

138 C

C"

(5) By adding a new Item SUB 201-9A to read:	
"9A. <u>HP3802 KALIHI-WAENA ELEMENTARY SCHOOL, OAHU</u>	
<u>DESIGN AND CONSTRUCT RETAINING WALL, BACKFILL,</u>	
<u>LANDSCAPE, AND FENCE.</u>	
DESIGN	27
CONSTRUCTION	190
<u>TOTAL FUNDING</u>	<u>COH</u> <u>217</u>

(6) By amending Item SUB 501-45 to read:

"45. JP2416 KAUAI ECONOMIC OPPORTUNITY, KAUAI.	
PLANNING, [AND] DESIGN AND CONSTRUCTION OF OFFICE	
BUILDING.	
DESIGN	50
CONSTRUCTION	120
<u>TOTAL FUNDING</u>	<u>COK</u> <u>[50] 170 C</u>

SECTION 9. Any law to the contrary notwithstanding, the unencumbered balance of the following appropriations under Act 217, Session Laws of Hawaii 1987, in the amounts indicated are lapsed:

Item No.	Amount (MOF)
SUB 201-9	\$ 12,000 C
SUB 201-11	195,000 C
SUB 201-22	10,000 C
SUB 501-44	120,000 C

PART II. SPECIAL PROVISIONS

SECTION 10. GOVERNOR'S DISCRETIONARY POWERS. When it is deemed in the public interest of the State, the governor, in his discretion, is authorized to use general obligation bond funds to finance capital improvement projects authorized for this fiscal biennium in this Act, where the method of financing is designated to be the general fund. Any law or provision to the contrary notwithstanding, the governor may replace general funds appropriated for capital improvement projects with general obligation reimbursable bond funds, when the expenditure of such general obligation reimbursable bond funds is deemed appropriate for the project.

SECTION 11. If general obligation bond proceeds have been allocated to an authorization which may be satisfied from general obligation bond proceeds and the amount of such proceeds so allocated is in excess of the amount needed to satisfy such authorization, the amount of such excess proceeds shall be transferred to a separate account and allocated to the satisfaction of other authorizations which may be satisfied from general obligation bond proceeds made in the same or any other act of the legislature; provided that a report of such allocations for the period ending December 31 of each year shall be made to the legislature by February 1, of the following year.

SECTION 12. The designated expending agency for capital improvements authorized in this Act is authorized to delegate to other state or county agencies the acquisition of land, design, and construction of such projects when it is determined by such agency that it is advantageous to do so; provided that a report of all such delegations for the period ending December 31 of each calendar year shall be made to the first regular session of the legislature convened after such delegations have been made.

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SECTION 13. Where county capital improvement projects are partially or totally funded by state funds as authorized in this Act or any other act of the legislature, this fact should be appropriately acknowledged during construction and upon completion of these projects.

SECTION 14. The negotiation for the purchase of land by state agencies shall be subject to the approval of the governor. Private lands may be acquired for the purpose of exchange for federal lands when the governor determines that such acquisition and exchange are necessary for the completion of any projects authorized in this Act.

SECTION 15. Any law or any provision to the contrary notwithstanding, the governor may supplement funds for any early-phased cost element (plans or land) for a capital improvement project authorized under this Act by transferring such sums as may be needed from the funds authorized for later-phased cost elements (design or construction) for the same project authorized by the legislature in this Act or in a prior year or which may be authorized by the legislature in the future.

SECTION 16. Where it has been determined that changed conditions, such as reduction in the particular population being served, permit the reduction in the scope of a capital improvement project described in this Act, the governor may authorize such reduction of project scope; provided that the scope of a project shall not be reduced merely because the authorization for a project is insufficient.

SECTION 17. In releasing funds for projects, the governor shall consider the legislative intent and the objectives of the user agency, its programs, the scope and level of the user agency's intended services; the means, efficiency, and economics by which the project will meet the objectives of the user agency and the State. Agencies responsible for construction shall take into consideration the objectives of the user agency, its programs, the scope and level of the user agency's intended service and construct the improvement to meet the objectives of the user agency in the most efficient and economical manner possible.

SECTION 18. No authorization in this Act shall be considered to be a mandate under Article VIII, Section 5 of the State Constitution, for a political subdivision to undertake new programs or to increase the level of services under existing programs of that political subdivision. If any authorization in this Act falls within the provision of Article VIII, Section 5 of the State Constitution, such authorization shall be void, and in the case of capital improvement authorizations designated to be financed from the general obligation bond fund, the total general obligation bonds authorized under section 2 of this Act shall be correspondingly decreased.

SECTION 19. If the amount specified for any capital improvement project is not totally required to complete the work of such project or after it is definitely found by the expending officer that not more than a specified amount will be required to complete such work, such unrequired amount may be expended with the approval of the governor for any other capital improvement project authorized by the legislature in this Act or in a prior year or which may be authorized by the legislature in the future.

SECTION 20. If any portion of this Act or its application to any person or circumstances is held to be invalid for any reason, then the legislature hereby 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 authorization is held to be invalid for any reason, the remaining portion shall be independent of the invalid portion and such remaining portion shall be expended to fulfill the objective of

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such authorization to the extent possible. If any portion of a specific lapse is held to be invalid for any reason, the remaining portion shall be independent of the invalid portion and such remaining portion shall be lapsed to fulfill the objective of such lapse to the extent possible.

SECTION 21. If manifest clerical, typographical, or other mechanical errors are found in this Act, the governor is hereby authorized to correct such errors. All changes made pursuant to this section shall be reported to the legislature at its next session.

SECTION 22. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 23. This Act shall take effect upon its approval.

(Approved June 7, 1988.)

**COMMITTEE REPORTS
ON MEASURES ENACTED AND VETOED**

**TABLES SHOWING EFFECT
OF ACTS**

GENERAL INDEX

COMMITTEE REPORTS ON MEASURES ENACTED AND VETOED

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N = New
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C. STATE CONSTITUTION AFFECTED

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Art II, §1	Am	SB 2718
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