

**SESSION LAWS**  
OF  
**HAWAII**  
PASSED BY THE  
**ELEVENTH STATE LEGISLATURE**

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**REGULAR SESSION**  
**1981**

Convened on Wednesday, January 21  
and

Adjourned sine die on Thursday, April 30

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**FIRST SPECIAL SESSION**  
**1981**

Convened on Monday, June 22  
and

Adjourned Sine Die on  
June 29, 1981

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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 First Special Sessions of 1981. In the preparation of the volume, the text of the laws as enacted has been followed except for palpable clerical errors, which have been corrected; and the text has been printed in full except for laws amending existing statutes.

As enacted, amendatory legislation contained brackets (designating matter deleted from existing statutes) or underscoring (designating new matter added). As authorized by HRS §23G-16.5 and for purposes of economy and readability, the brackets, bracketed material, and underscoring have generally been omitted from the laws as printed herein. They have been retained only in cases where the retention was deemed to be particularly desirable. Notes indicate the laws that have been edited.

**HIDEHIKO UYENOYAMA**  
Revisor of Statutes  
Legislative Reference Bureau

Honolulu, Hawaii

July 9, 1981

**STATE OF HAWAII**  
**ELECTED OFFICIALS AND LEGISLATIVE OFFICERS**

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**UNITED STATES CONGRESS**

**Senate:**

Daniel K. Inouye  
Spark M. Matsunaga

**House of Representatives:**

Daniel K. Akaka  
Cec Heftel

**STATE EXECUTIVE OFFICERS**

Governor of Hawaii ..... George R. Ariyoshi  
Lieutenant Governor ..... Jean King

**OFFICERS AND MEMBERS OF THE  
ELEVENTH STATE LEGISLATURE  
REGULAR SESSION  
1981**

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Vice President ..... Duke T. Kawasaki  
Clerk ..... Seichi Hirai

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Ann Kobayashi (R)  
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Seventh District—(Oahu)  
Steve Cobb (D)  
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W. Buddy Soares (R)

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Norman Mizuguchi (D)  
Patsy K. Young (D)

Eighth District—(Kauai, Niihau)  
George H. Toyofuku (D)

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## HOUSE OF REPRESENTATIVES

Speaker ..... Henry Haalilio Peters  
Vice Speaker ..... Daniel J. Kihano  
Clerk ..... George M. Takane

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Second District—(Hawaii)	Michael Minoru Liu (R)	
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Bertrand Kobayashi (D)	Twenty-Fourth District—(Oahu)	
Eleventh District—(Oahu)	Marshall K. Ige (D)	
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Gerald de Heer (D)	Twenty-Seventh District—(Kauai, Carol Fukunaga (D)	Niihau)
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Fourteenth District—(Oahu)	Tony T. Kunimura (D)	
Russell Blair (D)	Dennis R. Yamada (D)	
Kathleen Stanley (D)		

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**1981**  
**REGULAR SESSION**  
**LAWS**



**Session Laws of Hawaii  
Passed By The  
Eleventh State Legislature  
Regular Session  
1981**

**ACT 1**

**H.B. NO. 3**

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 from the general revenues of the State the sum of \$1,967,492 or so much thereof as may be necessary, for defraying any and all session and non-session expenses of the Senate up to and including June 30, 1982, including but not limited to the 1981 regular session, Eleventh State Legislature of the State of Hawaii, and pre-session expenses and the expenses of any committee or committees established during the interim between the 1981 and 1982 regular sessions.

SECTION 2. There is appropriated from the general revenues of the State the sum of \$2,554,174 or so much thereof as may be necessary, for defraying any and all session and non-session expenses of the House of Representatives up to and including June 30, 1982, including but not limited to the 1981 regular session, Eleventh State Legislature of the State of Hawaii, and pre-session expenses and the expenses of any committee or committees established during the interim between the 1981 and 1982 regular sessions.

SECTION 3. Payment of expenses of the Senate during the interim between the 1981 and 1982 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 1981 and 1982 regular sessions shall be made only with the approval of the Speaker of the House of Representatives.

## **ACT 1**

**SECTION 4.** Before January 20, 1982, the Senate and the 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 20, 1982.

**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 provision 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 \$45 per day and authorized by the President of the Senate and the Speaker of the House of Representatives, respectively.

**SECTION 6.** There is appropriated from the general revenues of the State the sum of \$1,444,913 to the office of the legislative auditor for the following expenses: (a) the sum of \$1,161,013 or so much thereof as may be necessary, for defraying the expenses of the office of the legislative auditor during the fiscal year 1981-82; provided, that of the sum appropriated, \$50,000, or so much thereof as may be necessary, shall be used for the initiation of a budget review and analysis program; (b) the sum of \$133,900 or so much thereof as may be necessary, for defraying the expenses of the office of the state ethics commission from the date of approval to June 30, 1982, (c) the sum of \$150,000 or so much thereof as may be necessary during the fiscal year 1981-82, 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 from the general revenues of the State the sum of \$1,603,258 or so much thereof as may be necessary, to the legislative reference bureau for defraying the expenses of the bureau during the fiscal year 1981-1982, including equipment relating to computer systems programming and operations for the purpose of improving the efficiency of legislative operations including, but not limited to, bill drafting, statutory and information retrieval, status of legislative actions, and reproductions of legislative material.

**SECTION 8.** There is appropriated from the general revenues of the State the sum of \$310,482 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 1981-1982.

**SECTION 9.** There is appropriated out of the general revenues of the State of Hawaii to the legislative agencies indicated below, the following sums, or so much thereof as may be necessary, to provide the necessary fund authorization and appropriations to allow for the immediate and retroactive implementation of salary increases for officers and employees in these agencies excluded or exempt from collective bargaining and who are or were employed in such agencies during the fiscal biennium 1979-1981 so that they will receive comparable salary increases and other cost adjustments as were received by excluded state officers and employees for the fiscal biennium beginning July 1, 1979 under Act 3, Session Laws of Hawaii 1980:

FY 1979-1980      FY 1980-1981

Office of the Legislative Auditor	\$18,731	\$34,962
Ethics Commission	3,603	5,602
Legislative Reference Bureau	7,596	11,880
Ombudsman	4,775	8,440

SECTION 10. As of the close of business on June 10, 1982, 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 13, 1981.)

## ACT 2

S.B. NO. 233

A Bill for an Act Relating to Allowances for Legislators.

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

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

**“§ 24-1 Allowance for incidental expenses.** Each member of the legislature shall receive an annual allowance of \$2,500, which amount is to cover incidental expenses connected with legislative duties and the amount shall be payable in a manner prescribed by the respective rules of each house.”

SECTION 2. Section 24-2, Hawaii Revised Statutes, is amended to read as follows:

**“§ 24-2 Allowance for non-Oahu legislator during session.** A member of the legislature whose legal residence is on an island other than Oahu shall receive an additional allowance of \$20 per day, which amount is to cover lodging and incidental expenses but not travel expenses. The allowance shall be paid to each member at the rate prescribed for each day, from the first to the last day of each session, including Saturdays, Sundays, holidays, and days of recess pursuant to the mandatory recess required by Article III, section 10, of the constitution or a concurrent resolution, except for days of recess when a session of the legislature is recessed for more than three days pursuant to a concurrent resolution and for days of unexcused absence of the member from a meeting of the respective house.”

SECTION 3. Section 24-4, Hawaii Revised Statutes, is amended to read as follows:

## ACT 3

**"§ 24-4 Allowance for expenses while on official legislative business during period of recess and interim official legislative business.** When a session of the legislature is recessed for more than three days pursuant to a concurrent resolution or for any interim official legislative business, a member of the legislature while on official legislative business on the island of his legal residence and when authorized by the presiding officer of the respective house, shall receive an allowance of \$10 per day to cover personal expenses.

When a session of the legislature is recessed for more than three days pursuant to the mandatory recess required by Article III, section 10, of the constitution or a concurrent resolution or for any interim official legislative business, a member of the legislature who is required to remain away from the island of his legal residence but within the State overnight or longer while on official legislative business and when authorized by the presiding officer of the respective house, shall receive an allowance of \$30 per day, which amount is to cover all personal expenses such as board, lodging, and incidental expenses but not travel expenses."

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

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

(Approved March 9, 1981.)

## ACT 3

H.B. NO. 794

A Bill for an Act Relating to Taxation.

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

SECTION 1. The Legislature finds that Congress has enacted major income tax legislation during the 1980 calendar year and that the State must continue in its efforts towards conforming the state income tax law with the Internal Revenue Code. The legislature also finds that during the interim since the regular session of 1980, the department of taxation has found additional amendments which should be made to the state tax law to fulfill the efforts of the legislative and executive branches in maintaining income tax conformity.

The purpose of this Act is to continue the efforts of the State in maintaining the conformity of the state income tax law with the federal Internal Revenue Code.

SECTION 2. Chapter 235, Hawaii Revised Statutes, is amended as follows:

1. Section 235-2.2 is amended to read as follows:

**"§235-2.2 Internal Revenue Code, further amendments adopted.** For each taxable year specified in column 1 below, the Internal Revenue Code meant is the Internal Revenue Code of 1954 as amended as of June 7, 1957 and as further amended by the acts of Congress, or portions thereof, enumerated in column 2 (section num-

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

bers in column 2 are inclusive). Amendments to the Code not enumerated in section 235-2, 235-2.1, or herein shall not be operative for the purposes of this chapter unless specifically adopted.

<b>Column 1</b>	<b>Column 2</b>
Taxable years beginning on or after January 1, 1977.	Public Law 629, 84th Cong., 2d Session, section 5(a) (with respect to nontaxable exchanges for taxable years beginning after December 31, 1976).
	Public Law 86-779, section 10(h) (with respect to constructive ownership of stock for taxable years beginning after December 31, 1976).
	Public Law 86-781, section 6(a) (with respect to limitation on acceleration of accrual of taxes for taxable years beginning after December 31, 1976).
	Public Law 87-876, section 3(a) (with respect to dividends or interest paid on certain deposits or withdrawable accounts for taxable years beginning after December 31, 1976).
	Public Law 88-272, sections 218(a) and (b) (with respect to corporate reorganizations for taxable years beginning after December 31, 1976) and 226(a) and (b) (with respect to treatment in case of oil and gas wells for taxable years beginning after December 31, 1976).
	Public Law 88-484, section 1(b) (1) and (2) (with respect to corporate distributions in taxable years beginning after December 31, 1976).
	Public Law 88-539, section 3(a) and (b) (with respect to the installment method of accounting for taxable years beginning after December 31, 1976).
	Public Law 88-554, section 4(a) (with respect to constructive ownership of stock for taxable years beginning after December 31, 1976).
	Public Law 88-563, section 5 (with respect to original issue discount for taxable years beginning after December 31,

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1976).

Public Law 89-97, sections 106(a), (b), (c), and (d)(1) (with respect to medical deductions for taxable years beginning after December 31, 1976) and 313(b) (with respect to employee tips for taxable years beginning after December 31, 1976).

Public Law 89-570, section 1(b)(2) and (4) (with respect to corporate distributions in taxable years beginning after December 31, 1976).

Public Law 89-809, section 202(c) (with respect to methods of accounting for taxable years beginning after December 31, 1976).

Public Law 90-621, section 1(a) and (b) (with respect to corporate reorganizations for taxable years beginning after December 31, 1976).

Public Law 91-172, sections 211(a) and (b)(1) to (6) (with respect to gain from disposition of property used in farming where farm losses offset nonfarm income for taxable years beginning after December 31, 1976; provided that provisions relating to the excess deduction account shall not apply), 214(a) (with respect to gain from disposition of farm land for taxable years beginning after December 31, 1976), 215(a) (with respect to crop insurance proceeds for taxable years beginning after December 31, 1976), 216(a) (with respect to capitalization of costs of planting and developing citrus groves for taxable years beginning after December 31, 1976), 221(a) (with respect to limitation on interest deduction attributable to investment indebtedness for taxable years beginning after December 31, 1976), 413(a) and (b) (with respect to bonds and other evidences of indebtedness for taxable years beginning after

**Column 1****Column 2**

December 31, 1976), 511(a) (with respect to definition of terms applicable to capital gains and losses for taxable years beginning after December 31, 1976), 802(b)(1) and (2) (with respect to the determination of marital status for taxable years beginning after December 31, 1976), and 916(a) (with respect to methods of accounting for taxable years beginning after December 31, 1976).

Public Law 91-680, section 1(a) (with respect to capitalization of costs of planting and developing almond groves for taxable years beginning after December 31, 1976).

Public Law 91-687, section 1 (with respect to determining when stock of a corporation shall not be treated as a capital asset for taxable years beginning after December 31, 1976).

Public Law 91-693, section (a) and (b) (with respect to corporate reorganizations for taxable years beginning after December 31, 1976).

Public Law 92-178, sections 304(a)(2), (c), and (d) (with respect to excess investment interest for taxable years beginning after December 31, 1976) and 305(a) (with respect to farm losses of electing small business corporations for taxable years beginning after December 31, 1976; provided that provisions relating to the excess deduction account shall not apply).

Public Law 93-406, sections 1013(c)(2) (with respect to when certain contributions may be made for taxable years beginning after December 31, 1976) and 2004(a)(2) (with respect to limitations on benefits and contributions under qualified plans for taxable years beginning after December 31, 1976).

Public Law 93-483, sections 4 (with re-

## **ACT 3**

### **Column 1**

### **Column 2**

spect to application of section 117 of the Internal Revenue Code to certain educational programs for members of the uniformed services for taxable years beginning after December 31, 1976) and 6(a) (with respect to penalties forfeited because of premature withdrawal of funds from time-savings accounts or deposits for taxable years beginning after December 31, 1976).

Public Law 94-12, section 207 (with respect to extension of period for replacing old residence for purpose of non-recognition of gain for taxable years beginning after December 31, 1976).

Public Law 94-267, sections (a)(1), (2), and (3) and (b)(1), (2), and (3) (with respect to termination of employee trusts and annuity plans for taxable years beginning after December 31, 1976).

Public Law 94-455, sections 201(a) (with respect to the capitalization and amortization of real property construction period interest and taxes, in the case of (1) nonresidential real property, for taxable years beginning after December 31, 1976, (2) residential real property, other than low-income housing, for taxable years beginning after December 31, 1977, and (3) low-income housing, for taxable years beginning after December 31, 1981; provided that the transitional rule for 1976 (section 189(f) of the Internal Revenue Code as added by section 201(a) shall not apply)), 202(a), (b), and (c) (with respect to the recapture of depreciation on real property for taxable years beginning after December 31, 1976; provided that section 202(b) shall apply with respect to proceedings and operations of law referred to in section 1250(d) (10) of the Internal Revenue Code which begins after December 31, 1976), 203(a) (with respect to the depre-

**Column 1****Column 2**

ciation of expenditures to rehabilitate low-income rental housing for taxable years beginning after December 31, 1976; provided that (1) section 167(k) of the Internal Revenue Code as adopted by this State is amended by striking out "January 1, 1975" in paragraph (1) and inserting in lieu thereof "January 1, 1978", (2) the amendments made by section 203(a)(1), (3), and (4) shall apply to expenditures paid or incurred after December 31, 1976, and before January 1, 1978, and expenditures made pursuant to a binding contract entered into before January 1, 1978, and (3) the amendment made by section 203(a)(2) shall apply to expenditures incurred after December 31, 1976, 204(a) and (c)(2) and (3)(A) and (B) (with respect to limitations on deductions for expenses for taxable years beginning after December 31, 1976; provided that the amendments made by section 204(a) shall apply to losses attributable to amounts paid or incurred in taxable years beginning after December 31, 1976, and for this purpose, any amount allowed or allowable for depreciation or amortization for any period shall be treated as an amount paid or incurred in such period; provided further that as adopted by this State (1) the date September 11, 1975 in section 204(c)(2)(A) shall read January 1, 1977, (2) the dates December 31, 1975 and September 10, 1975, respectively, in section 204(c)(2)(B) shall read December 31, 1976 and January 1, 1977, respectively, (3) the date January 1, 1976 in section 204(c)(3)(A) shall read January 1, 1977, (4) the date December 31, 1975 in section 204(c)(3)(B) shall read December 31, 1976, and (5) the dates contained in section 204(c)(3)(C) shall be disregarded), 205(a), (b), and (c) (with respect to gain

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from the disposition of interest in oil or gas property for taxable years beginning after December 31, 1976; provided that section 1254 of the Internal Revenue Code as adopted by this State is amended by striking out "December 31, 1975" therein and inserting in lieu thereof "December 31, 1976"), 206(a) and (b) (with respect to gain from disposition of property used in farming where farm losses offset nonfarm income for taxable years beginning after December 31, 1976; provided that the adoption of section 206(a) shall not result in application of the excess deduction account for taxable years beginning before January 1, 1977), 207(a)(1), (b)(1) and (2) and (c)(1)(A), and (c)(3) (with respect to limitations on deductions in case of farming syndicates; capitalization of certain orchard and vineyard expenses; and method of accounting for corporations engaged in farming for taxable years beginning after December 31, 1976), 208(a) (with respect to prepaid interest for taxable years beginning after December 31, 1976), 209(a) and (b)(2) (with respect to limitation on interest deduction for taxable years beginning after December 31, 1976, except where otherwise provided in section 209(b)(2); provided that as adopted by this State (1) the date "September 11, 1975" in section 209(b)(2) shall read "January 1, 1977", and (2) the date "September 10, 1975" in section 209(b)(2) shall read "December 31, 1976"), 210(a) (with respect to amortization of motion pictures, books, records, and other similar property for taxable years beginning after December 31, 1976), 212(a)(1) and (b)(1) (with respect to basis limitation for and recapture of depreciation on player contracts for taxable years beginning after December

**Column 1****Column 2**

31, 1976), 213(a) (with respect to dollar limitations in the case of partnerships with respect to additional first-year depreciation allowance for taxable years beginning after December 31, 1976), (b)(1) and (3) (with respect to treatment of organization and syndication fees for taxable years after December 31, 1976), (c)(1) and (2) (with respect to allocation of partnership income and losses for taxable years beginning after December 31, 1976), (d) (with respect to determination of partner's distributive shares for taxable years beginning after December 31, 1976), and (e) (with respect to treatment of partnership liabilities with respect to which the partner is not personally liable for taxable years beginning after December 31, 1976), 214(a) (with respect to scope of waiver of statute of limitations in case of activities not engaged in for profit for taxable years beginning after December 31, 1976), 502(a) (with respect to deductions for alimony allowed in determining adjusted gross income for taxable years beginning after December 31, 1976), 506(a), (b), and (c) (with respect to moving expenses for taxable years beginning after December 31, 1976), 601(a) (with respect to deductions for expenses attributable to business use of home, rental of vacation homes, etc., for taxable years beginning after December 31, 1976), 602(a) (with respect to deductions for attending conventions for taxable years beginning after December 31, 1976), 605(a) (with respect to deductions for guarantees of business bad debts to guarantors not involved in business for taxable years beginning after December 31, 1976), 701 (a)(2) and (3), (b), (c), (d), and (e)(2) (with respect to accumulation trusts for taxable years beginning after December 31, 1976; pro-

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### **Column 1**

### **Column 2**

vided that the reference in section 668 of the Internal Revenue Code to section 667 of the Internal Revenue Code shall be deemed a reference to section 235-58.1 relating to the treatment of amounts deemed distributed by trust in preceding years and the reference in section 641 of the Internal Revenue Code to section 644(b) of the Internal Revenue Code shall be deemed a reference to section 235-58.2(b) relating to the special rule for gain on property transferred to trusts at less than fair market value), 806 (e), (f), as to special limitations on capital losses, and (g)(2) (with respect to limitations on net operating loss carryovers and capital losses effective for taxable years as provided in section 806(g)(2)), 1401(a) and (b) (with respect to amounts of ordinary income against which capital loss may be offset for taxable years beginning after December 31, 1976), 1402(a), (b), (c), and (d) (with respect to increases in holding period required for capital gain or loss to be long term from six to nine months for taxable years beginning after December 31, 1976 and from nine months to one year for taxable years beginning after December 31, 1977), 1404(a) (with respect to sales of residences by the elderly for taxable years beginning after December 31, 1976), 1501 (a) and (b)(1) to (6) and (10) (with respect to retirement savings for certain married individuals for taxable years beginning after December 31, 1976), 1502(a)(1) and (2) (with respect to limitations on contributions to certain pension, etc., plans for taxable years beginning after December 31, 1976), 1503(a) (with respect to participation by members of reserves or national guard, and volunteer firefighters in individual retirement accounts, etc., for taxable years beginning after

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December 31, 1976), 1901(a)(22) (with respect to determination of marital status for taxable years beginning after December 31, 1976), (a)(66) (with respect to accounting methods for taxable years beginning after December 31, 1976), (a)(87) (with respect to the definition of property for taxable years beginning after December 31, 1976), (a)(128) (with respect to involuntary conversion for taxable years beginning after December 31, 1976), and (a)(136) (with respect to definition of terms applicable to capital gains and losses for taxable years beginning after December 31, 1976), and (b)(3)(I) (with respect to taxable years beginning after December 31, 1976), and (b)(3)(K) (with respect to ordinary income for taxable years beginning after December 31, 1976; provided that provisions relating to the excess deduction account shall not apply), and (b)(14)(D) (with respect to taxable years beginning after December 31, 1976), 1904(b)(10)(C) (with respect to taxable years beginning after January 31, 1977), 1951(b)(7) (with respect to accounting methods for taxable years beginning after December 31, 1976; provided that notwithstanding the amendment made by section 1951(b)(7), in the case of installment payments received during taxable years beginning after December 31, 1976, on account of a sale or other disposition made during a taxable year beginning before January 1, 1954, subsection (b)(1) of section 453 of the Internal Revenue Code (relating to sales of realty and casual sales of personality) shall apply only if the income was (by reason of section 44(b) of the Internal Revenue Code of 1939) returnable on the basis and in the manner prescribed in section 44(a) of the Internal Revenue Code of 1939), 2004(e) (with respect to

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### **Column 2**

requirements for capital gain on stock redemptions to pay estate taxes for taxable years beginning after December 31, 1976; provided that the references in section 303(b)(1) of the Internal Revenue Code to the time limits in sections 6213, 6501(a), 6166, and 6166A of the Internal Revenue Code or the election under sections 6166 and 6166A of the Internal Revenue Code shall be followed by the State even though the State has not adopted such sections), 2005[(a) (with respect to carryover basis of inherited property for taxable years beginning after December 31, 1976; provided that the amendment of section 1014(d) of the Internal Revenue Code made by section 2005(a) shall for the purposes of this State be considered an addition of a new subsection (d) to section 1014 of the Internal Revenue Code as adopted by this State).] (b) (with respect to the use of certain appreciated carryover basis property to satisfy pecuniary request for taxable years beginning after December 31, 1976), and (c) (with respect to increases in basis for gift tax paid to that portion of gift tax attributable to net appreciation in value for taxable years beginning after December 31, 1976), 2101(b) (with respect to allowances of depreciation deduction by a cooperative housing corporation for taxable years beginning after December 31, 1976), 2102(a) and (b) (with respect to treatment of certain disaster payments for taxable years beginning after December 31, 1976), 2104(a) (with respect to deductions for bad debts owed by a political party for taxable years beginning after December 31, 1976), 2110(a) (with respect to application of franchise rules to partnerships for taxable years beginning after December 31, 1976; provided that the amendments made by section

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2110(a) shall apply to transactions described in section 731, 736, 741, or 751 of the Internal Revenue Code which occur after December 31, 1976, in taxable years ending after that date), 2118(a) (with respect to treatment of gain or loss on sales or exchanges in connection with simultaneous liquidation of a parent or subsidiary corporation for taxable years beginning after December 31, 1976), 2122(a) and (b)(2), (3), and (4) (with respect to allowances of deduction for eliminating architectural and transportation barriers for the handicapped for taxable years beginning after December 31, 1976 and before January 1, 1980), 2124(a)(1), (2), and (3) (with respect to the rehabilitation of certified historic structures with respect to additions to capital accounts made after December 31, 1976 and before June 15, 1981), (b)(1) (with respect to demolition of certain historic structures commencing after December 31, 1976 and before January 1, 1981), (c)(1) (with respect to depreciation of rehabilitation expenditures of certified historical structures on that portion of the basis which is attributable to construction, reconstruction, or erection after December 31, 1976 and before January 1, 1981; provided that section 167(n) of the Internal Revenue Code as adopted by this State is amended by striking out "June 30, 1976" and inserting in lieu thereof "January 1, 1977"), (d)(1) (with respect to depreciation of rehabilitation expenditures of certified historical structures with respect to additions to capital account occurring after December 31, 1976 and before July 1, 1981), and (e)(1) (with respect to deductions for charitable contributions of partial interests in property for conservation purposes with respect to contributions made after December

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### **Column 1**

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31, 1976 and before June 14, 1977), 2127(a) (with respect to outdoor advertising displays for taxable years beginning after December 31, 1976), 2129 (a) (with respect to gain from sale of depreciable property between related parties for taxable years beginning after December 31, 1976; provided the amendments made by section 2129(a) shall apply to sales or exchanges after December 31, 1976; and provided that a sale or exchange is considered to have occurred on or before such date if such sale or exchange is made pursuant to a binding contract entered into on or before such date), 2130 (with respect to application of section 117 of the Internal Revenue Code to certain education programs for members of the uniformed services), 2131 (a), (b), (c), (d), and (e)(1) (with respect to exchange fund transfers made in taxable years ending after December 31, 1976; provided that (1) except as provided in (2) following, the amendment made by section 2131(a) shall apply to transfers made after December 31, 1976, in taxable years ending after such date; provided further that (2) the amendment made by section 2131(a) shall not apply to transfers made in accordance with a ruling issued by the Internal Revenue Service before February 18, 1976, holding that a proposed transaction would be a reorganization described in paragraph (1) of section 368(a) of the Internal Revenue Code; and (3) except as provided in (4) following, the amendments made by section 2131(b) and (c) shall apply to transfers made after December 31, 1976, in taxable years ending after such date; provided further that (4) the amendments made by section 2131(b) and (c) shall not apply to transfers made on or before January 2, 1977 if: (A) either (i) a ruling request with re-

**Column 1****Column 2**

spect to such transfers was filed with the federal Internal Revenue Service before March 27, 1976, or (ii) a registration statement with respect to such transfers was filed with the federal Securities and Exchange Commission before March 27, 1976 (B) the securities transferred were deposited on or before December 3, 1976, and (C) either (i) the aggregate value (determined as of the close of December 3, 1976, or, if earlier, the close of the deposit period) of the securities so transferred does not exceed \$100,000,000, or (ii) the securities transferred were all on deposit on February 29, 1976, pursuant to a registration statement referred to in (A)(ii) preceding; provided further that (5) if no registration statement was required to be filed with the federal Securities and Exchange Commission with respect to the transfer of securities to any partnership, then (4) preceding shall be applied to such transfers [(a)] (A) as if (4) preceding did not contain (4)(A)(ii) preceding, and (B) by substituting "\$25,000,000" for "\$100,000,000" in (4)(C)(i) preceding; and provided further that (6) the amendments made by section 2131(d) and (e) shall take effect on January 1, 1977, in taxable years ending on or after such date), 2132(a) (with respect to contributions of certain government publications for taxable years beginning after December 31, 1976), 2135 (a) (with respect to charitable contributions of inventory and other property for taxable years beginning after December 31, 1976), 2136(a) (with respect to treatment of grantor of options of stock, securities, and commodities for taxable years beginning after December 31, 1976), 2139(a) (with respect to support test for dependent children of divorced, etc., parents for taxable years beginning after December

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### Column 1

For taxable years beginning on or after January 1, 1978.

### Column 2

31, 1976), 2140(a) (with respect to involuntary conversions of real property for taxable years beginning after December 31, 1976; provided that the amendments made by section 2140(a) shall apply with respect to any disposition of converted property (within the meaning of section 1033(a)(2) of the Internal Revenue Code) after December 31, 1976, unless a condemnation proceeding with respect to such property began before such effective date), and 2141 (a) (with respect to livestock sold on account of drought for taxable years beginning after December 31, 1976).

Public Law 94-455, section 505(a) and (b) (with respect to changes in exclusions for sick pay and certain military, etc., disability pensions; certain disability income for taxable years beginning after December 31, 1977; provided that where disability or annuity payments are excluded from taxation by section 235-7 the adoption of section 505(a) and (b) shall not make such payments taxable under this chapter)."

2. Section 235-2.3 is amended to read:

**“§235-2.3 Conformance to the federal Internal Revenue Code.** (a) For all taxable years beginning after December 31, [1979,] 1980, 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, [1979] 1980 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 and this section do not apply or are otherwise limited in application [and except that amendments to the Internal Revenue Code made by Public Law 95-600, section 702 (with respect to technical, clerical, and conforming amendments to estate and gift tax provisions) shall be operative for the purposes of this chapter on the effective dates set forth in section 702].

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[; except that amendments to the Internal Revenue Code made by Public Law 95-600, section 702 (with respect to technical,

clerical, and conforming amendments to estate and gift tax provisions) shall be operative for the purposes of (1) and (2) of this subsection even if such determination was made or such taxable year begins before January 1, 1978].

(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 58) (with respect to determination of tax liability).
- (2) Section 78 (with respect to dividends received from certain foreign corporations by domestic corporations choosing foreign tax credit).
- (3) Section 103 (with respect to interest on certain governmental obligations). For treatment, see section 235-7(b).
- (4) Section 116 (with respect to partial exclusion of dividends and interest received by individuals). For treatment, see section 235-7(c).
- (5) Section 120 (with respect to amounts received under qualified group legal services plans). For treatment, see subsection (g) of this section and sections 235-7(a)(10) to (12) and 235-9(a)(2) and (5).
- (6) Section 122 (with respect to certain reduced uniformed services retirement pay). For treatment, see section 235-7(a)(3).
- (7) Section 151 (with respect to allowance of deductions for personal exemptions). For treatment, see section 235-54.
- (8) Section 169 (with respect to amortization of pollution control facilities). For treatment, see section 235-11.
- (9) 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).
- (10) Section 280C (with respect to portion of wages for which credit is claimed under section 44B).
- (11) Section 367 (with respect to foreign corporations).
- (12) Section 457 (with respect to deferred compensation plans with respect to service for state and local governments).
- (13) Subchapter F (sections 501 to 528) (with respect to exempt organizations), except as provided in subsection (g) of this section. For treatment, see section 235-9.
- (14) Subchapter G (sections 531 to 565) (with respect to corporations used to avoid income tax on shareholders).
- (15) Subchapter H (sections 581 to 596) (with respect to banking institutions). For treatment, see chapter 241.
- (16) Section 642(a), (b), and (d) (with respect to special rules for credits and deductions).
- (17) Section 668 (with respect to interest charge on accumulation distributions from foreign trusts).
- (18) Subchapter L (sections 801 to 844) (with respect to insurance companies). For treatment, see sections 431-318 and 431-320.
- (19) Section 853 (with respect to foreign tax credit allowed to shareholders). For treatment, see section 235-55.

## ACT 3

(20) 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).

(21) Section 1055 (with respect to redeemable ground rents).

(22) Section 1057 (with respect to election to treat transfer to foreign trust, etc., as taxable exchange).

(23) Section 1201 (with respect to alternative tax). For treatment, see section 235-71(a).

(24) Subchapter Q (sections 1301 to 1351) (with respect to readjustment of tax between years and special limitations).

(25) Subchapter T (sections 1381 to 1388) (with respect to cooperatives and their patrons). For treatment, see chapter 421.

(c) The determinations, provisions, and requirements relating to zero-bracket amounts in the amendments to the Internal Revenue Code by Public Law 95-30, sections 101 (with respect to change in tax rates and tax tables to reflect permanent increase in standard deduction) and 102 (with respect to change in definition of taxable income to reflect change in tax rates and tables) and Public Law 95-600, section 101(b) (with respect to increase in zero-bracket amount) and any other present or future amendments to the Internal Revenue Code relating to zero-bracket amounts shall not be operative for the purposes of this chapter.

(d) Sections 141 (with respect to standard deduction), 142 (with respect to individuals not eligible for standard deduction), and 144 (with respect to election of standard deduction) of the Internal Revenue Code, as amended, as of June 7, 1957, shall be operative for the purposes of this chapter, subsection (a) of this section to the contrary notwithstanding.

(e) Section 403 (with respect to taxation of employee annuities) of the Internal Revenue Code shall be operative for the purposes of this chapter; except the amendments to section 403 by Public Law 87-370, section 3 (with respect to employees of certain educational organizations) shall not be operative.

(f) In administering the provisions of sections 410 to 415 (with respect to special rules relating to pensions, profit sharing, stock bonus plans, etc.) and sections 418 to 418E (with respect to special rules for multiemployer plans) of the Internal Revenue Code, the department of taxation shall adopt rules under chapter 91 relating to specific requirements under such sections and to such other administrative requirements under those sections as may be necessary for the efficient administration of sections 410 to [415.] 418E.

In administering sections 401 to [415] 418E (with respect to deferred compensation) of the Internal Revenue Code, Public Law 93-406, section 1017(i), shall be operative for the purposes of this chapter.

In administering section 402 (with respect to the taxability of beneficiary of employees' trust) of the Internal Revenue Code, the tax imposed on lump sum distributions by section 402(e) of the Internal Revenue Code shall be operative for the purposes of this chapter and the tax imposed therein is hereby imposed by this chapter at the rate determined under this chapter.

(g) Sections 512 to 515 (with respect to taxation of business income of certain exempt organizations) of the Internal Revenue Code shall be operative

for the purposes of this chapter as provided in this subsection.

The persons and organizations exempted by section 235-9 shall, if subject to tax under the Internal Revenue Code upon their "unrelated business taxable income", be taxed thereon under this chapter. For the purposes of this subsection the term "taxable income" as used in subsection(h)(2) of this section and section 235-71 shall be read as "unrelated business taxable income."

"Unrelated business taxable income" means the same as in the Internal Revenue Code, except that in the computation thereof sections 235-3, 235-5, and 235-7 (except subsection (c)), shall apply, and in the determination of the net operating loss deduction under section 235-7(d) there shall not be taken into account any amount of income or deduction which is excluded in computing the unrelated business taxable income. Unrelated business income shall not include any income from a prepaid legal service plan.

(h) Section 641 (with respect to imposition of tax) of the Internal Revenue Code shall be operative for the purposes of this chapter subject to the following:

- (1) The deduction for exemptions shall be allowed as provided in section 235-54(b).
- (2) The deduction for contributions and gifts in determining taxable income shall be limited to the amount allowed in the case of an individual, unless the contributions and gifts are to be used exclusively in the State.
- (3) The tax imposed by section 1(e) of the Internal Revenue Code as applied by section 641 of the Internal Revenue Code is hereby imposed by this chapter at the rate and amount on individuals as determined under section 235-51(a).

(i) Section 644 (with respect to special rule for gain on property transferred to trust at less than market value) of the Internal Revenue Code shall be operative for the purposes of this chapter and the tax imposed therein is hereby imposed by this chapter at the rate determined under this chapter; except that the determination of the interest rate established under section 6621 of the Internal Revenue Code referred to in section 644(a)(2) of the Internal Revenue Code shall instead be the interest rate established under section 231-39(b)(4).

(j) Section 667 (with respect to treatment of amounts deemed distributed by trusts in preceding years) of the Internal Revenue Code shall be operative for the purposes of this chapter and the tax imposed therein is hereby imposed by this chapter at the rate determined under this chapter; except that the reference to tax-exempt interest to which section 103 of the Internal Revenue Code applies in section 667(a) of the Internal Revenue Code shall instead be a reference to tax-exempt interest to which section 235-7(b) applies.

(k) Sections 991 to 997 (with respect to domestic international sales corporations) of the Internal Revenue Code shall be operative for the purposes of this chapter; provided that any corporation electing to be an international sales corporation under this chapter shall be incorporated and have its principal place of business in this State.

[(k)] (l) Section 1034 (with respect to rollover of gain on sale of principal residence) of the Internal Revenue Code shall be operative for the purpose of this chapter [subject to the following:

- (1) Section 1034(a) (with respect to nonrecognition of gain)

## ACT 3

of the Internal Revenue Code shall apply only to:

- [(A)] (1) A taxpayer who purchases a replacement residence which is located within the State, or
- [(B)] (2) A taxpayer who is a resident of the State, taxable upon the taxpayer's entire income, computed without regard to source within the State.

[(l)] (m) Section 1212 (with respect to capital loss carrybacks or carryforwards) of the Internal Revenue Code shall be operative for the purposes of this chapter; except that for the purposes of this chapter the capital loss carryback provisions of section 1212 shall not be operative and the capital loss carryforward allowed by section 1212(a), shall be limited to five years.

[(m)] (n) Subchapter S (sections 1371 to 1379) with respect to the election of certain small business corporations as to taxable status of chapter 1 of the Internal Revenue Code shall be operative for the purposes of this chapter subject to the following:

- (1) The term small business corporation as defined in section 1371 of the Internal Revenue Code means a corporation which does not have:

- (A) A nonresident as a shareholder; or
- (B) A resident who is an individual who has taken up residence in the State after attaining the age of sixty-five years and before July 1, 1976 and who is taxed under this chapter only on the basis of income received or derived from property owned, personal services performed, trade or business carried on, and any and every other source in the State;

unless the individual resident in subparagraph (B) shall have waived the benefit of section 3, Act 60, Session Laws of Hawaii 1976, as to income includable in the individual's gross income under this chapter and as to such gross income shall have consented to the taxation thereof in the same manner as if the individual had taken up residence in the State after June 30, 1976.

- (2) An election under section 1372(a) of the Internal Revenue Code made by a small business corporation shall terminate, if for any taxable year of the corporation for which the election is in effect such corporation derives more than eighty per cent of its gross receipts from sources outside the State of Hawaii. Such termination shall be effective for the taxable year of the corporation in which it derives more than eighty per cent of its gross income from sources outside the State and for all succeeding taxable years;
- (3) An election under section 1372 of the Internal Revenue Code shall not be effective for any taxable year of the corporation unless there is also in effect for such taxable year an election for federal income tax purposes under Subchapter S of chapter 1 of the Internal Revenue Code.
- (4) The tax imposed by section 1378(a) of the Internal Revenue Code is hereby imposed by this chapter at an amount equal to 3.08 per cent on the amount by which the net capital gain of the corporation exceeds \$25,000. For the purposes of section 1378(c)(3) of the Internal Revenue Code the amount of tax to be determined shall not exceed 3.08 per cent on the net

capital gain attributable to property acquired as provided in section 1378(c)(3)(B) of the Internal Revenue Code and having a basis described in section 1378(c)(3)(C) of the Internal Revenue Code.

[(n)] (o) References in provisions of subtitle A, chapter 1, of the Internal Revenue Code which are operative in this State to provisions in the Internal Revenue Code which are not operative in this State shall be considered inoperative for the purposes of determining gross income, adjusted gross income, ordinary income, and loss, and taxable income; provided that references to time limits and other administrative provisions in subtitle F (sections 6001 to 7852) of the Internal Revenue Code shall be deemed references to applicable provisions of this chapter or chapter 231 or 232, and in the absence of applicable provisions in this chapter or chapter 231 or 232, then to rules adopted by the director of taxation under this subsection [(n).] (p). If operative provisions of subtitle A, chapter 1, of the Internal Revenue Code have been codified in this chapter such references shall be deemed references to the codified provisions in this chapter. Transitory and savings provisions in federal Public Laws amending sections of the Internal Revenue Code operative in this chapter shall be operative for the purposes of this chapter. Provisions in this chapter or chapter 231 or 232 in conflict with the Internal Revenue Code or transitory or savings provisions in federal Public Law shall control.

Retroactive provisions in federal Public Laws amending sections of the federal Internal Revenue Code operative in this chapter affecting taxable years beginning or ending before the December 31 date in subsection (a) shall be operative for the purposes of this chapter; provided that the effective dates in Public Law 96-471 placing it effect for the taxable year 1980 shall be operative for the purposes of this chapter.

[(o)] (p) 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) 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.

[(p)] (q) The department of taxation shall submit to each regular session of the legislature a bill to amend subsection (a) of this section and such other sections and subsections of this chapter as may be necessary to adopt the Internal Revenue Code as it exists on the December 31 preceding such regular session. In submitting the bill the department may provide that certain amendments to the Internal Revenue Code by Congress during the preceding calendar year shall not be operative in this State or as operative are limited in their operation. The department shall also prepare a digest and explanation of the amended provisions of the Internal Revenue Code recommended for operation, as well as those provisions which are limited in their operation, or which are not recommended for operation, and shall submit with the bill required by this subsection the digest, explanation, and a statement of revenue impact of the adoption of such bill. In preparing the bill, digest, and explanation the department may request the assistance of the office of the legislative reference bureau.

It is the intent of the legislature that it shall each year adopt all amendments to the Internal Revenue Code for the calendar year preceding the year in which the

## **ACT 4**

legislature meets; provided that the legislature may choose to adopt none of the amendments to the Internal Revenue Code or may provide that certain amendments are limited in their operation."

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

**SECTION 4.** This Act, upon its approval, shall apply to taxable years beginning after December 31, 1980, except as otherwise provided in this Act.

(Approved April 14, 1981.)

## **ACT 4**

**H.B. NO. 160**

A Bill for an Act Relating to County Highways, Sidewalks, Wharves.

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

**SECTION 1.** Chapter 265, 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 COUNTY HIGHWAYS AND SIDEWALKS**

**§ -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."

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

(Approved April 16, 1981.)

## **ACT 5**

**H.B. NO. 358**

A Bill for an Act Relating to the Civil Service Law on Filing Notices of Certain Personnel Actions With the Director of Personnel Services

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

**SECTION 1.** Section 76-28, Hawaii Revised Statutes, is amended to read as follows:

**"§ 76-28 Notices required of appointing authorities.** The director of personnel services shall maintain records of all appointments, terminations of employment, transfers, resignations, suspensions, demotions, and dismissals. For this purpose, all appointing authorities shall file with the director notices of such

personnel actions. In the case of suspensions, dismissals, and demotions, the appointing authorities shall also file with the director copies of the written statements given to employees under sections 76-45 and 76-46."

SECTION 2. Section 76-45, Hawaii Revised Statutes, is amended to read as follows:

**"§ 76-45 Suspension.** An appointing authority may, for disciplinary purposes, suspend any employee without pay for such length of time as he considers appropriate, but not exceeding thirty days at any one time nor more than sixty days in any calendar year. No single suspension for a period of five working days or more, whether consecutively or not, shall take effect unless the appointing authority gives the employee a written notice setting forth the specific reasons upon which the suspension is based. With the approval of the director, an employee may be suspended for a period longer than thirty days pending an investigation or hearing of any charge against him. Where an employee has been suspended pending an investigation or hearing of any charge against him and the charge is subsequently dropped or not substantiated, he shall be reinstated in his position without loss of pay.

An employee who is suspended for a period not in excess of four working days, whether consecutively or not, shall be entitled to a written notice from the appointing authority setting forth the specific reasons upon which the suspension is based. The written notice shall be given to the employee or mailed to him within forty-eight hours after the suspension."

SECTION 3. Section 76-46, Hawaii Revised Statutes, is amended to read as follows:

**"§ 76-46 Dismissals; demotions.** An appointing authority may dismiss or demote any employee when he considers that the good of the service will be served thereby. Dismissals may be made only for such causes as will promote the efficiency of government service.

No dismissal or demotion of a regular employee shall be effective for any purpose unless at least ten days before the effective date thereof the appointing authority shall have given to the employee a written statement setting forth the specific reasons upon which the dismissal or demotion is based."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed materials, or the underscoring.\*

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

(Approved April 16, 1981.)

A Bill for an Act Relating to Domicile.

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 7

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

SECTION 1. Section 572-4, Hawaii Revised Statutes, is amended to read as follows:

**"§572-4 Right of domicile, sex or marital status.** The right of an individual to be or to become a resident domiciled in this State shall not be denied or abridged because of the sex or marital status of the individual. The residence of one spouse does not establish the residence of the other spouse, which shall be determined by the same factors that apply in determining the residence of any other individual capable of having an independent residence."

SECTION 2. Statutory material to be repealed is bracketed.\*

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

(Approved April 16, 1981.)

ACT 7

H.B. NO. 431

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 87-27, Hawaii Revised Statutes, is amended to read as follows:

**"§ 87-27 Supplemental plan to federal medicare.** Any other provision of this chapter notwithstanding, the board of trustees shall establish, effective July 1, 1966, a health benefit plan which takes into account benefits available to an employee-beneficiary and [his] spouse under the federal medicare plan, subject to the following conditions:

- (1) There shall be no duplication of benefits payable under federal medicare but the plan so established by the board shall be supplemental to the federal medicare plan.
- (2) The contribution for voluntary medical insurance coverage under federal medicare may be paid by the fund, in such manner as the board shall specify, in the case of an employee-beneficiary who is a retired employee, and [his] spouse while [he] the employee-beneficiary is living, including members of the old pension system and after [his] death [his] the employee-beneficiary's spouse provided [she] the spouse qualifies as an employee-beneficiary; provided that the counties, through their respective departments of finance, shall reimburse the fund for any contributions made for county employee-beneficiaries under this paragraph.
- (3) The benefits available under the plan, when taken together with the benefits available under the federal medicare plan shall, as nearly as is possible, approximate the benefits available under the plans set forth in section 87-22. If, for any reason, a situation develops where the benefits

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

available under the supplemental plan and the federal medicare plan substantially differ from those that would otherwise be available, the board is authorized to correct this inequity to assure substantial equality of benefits.

- (4) Any employee-beneficiary or dependent-beneficiary who is enrolled in the federal medicare plan shall participate in the supplemental plan to be set up hereunder, and any employee-beneficiary or dependent-beneficiary eligible for, but not enrolled in the federal medicare plan, may participate in such other plans as are set forth in section 87-22."

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

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

(Approved April 16, 1981.)

**ACT 8**

**H.B. NO. 496**

A Bill for an Act Relating to Industrial Loan Companies.

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

**SECTION 1.** Section 408-17, Hawaii Revised Statutes, is amended to read as follows:

**"§408-17 Making and payment of loans; written receipts and statements; chart of rates, etc.** Every licensee shall:

- (1) Deliver to the borrower at the time any contract other than a contract for an open-end loan is made a statement showing clearly and distinctly the terms, the amount, and date of the loan and of its maturity, the nature of the security, if any, the name and address of the borrower and of the licensee, the agreed rates of all charges and the actual effective rate of interest a year on the contract; this statement shall contain such additional information as the bank examiner may require;
- (2) Give to the borrower a plain and complete receipt for all payments of installments made on any loan at the time the payments are made or at the time of sending the borrower the periodic statement (as described in paragraph (5) of this section) for the billing cycle in which such payment was made, together with such additional information as the bank examiner may require;
- (3) Upon repayment in full of a loan other than an open-end loan, mark forthwith indelibly every application and security signed or executed by the borrower with respect to such loan (where the security does not also secure any other then existing obligation to the lender) with the word "paid" or "canceled", and release any mortgage, restore any pledge, cancel and return any note, and cancel and return any assignment given to the licensee by the borrower with respect to the loan (where the security does not also secure any other then existing obligation to the lender);
- (4) Deliver to the borrower at the time any open-end loan account is opened a copy of the open-end agreement and, to the extent the following items are

## ACT 9

not covered by the loan agreement, a statement showing clearly and distinctly the terms under which the open-end loans are to be made, the nature of the security, if any, the name and address of the borrower and of the licensee, the agreed rates of charges and the actual effective rate of interest under section 408-15, together with such additional information as the bank examiner may require; and

- (5) Except in the case of an open-end loan account which the licensee deems to be uncollectible or with respect to which delinquency collection procedures have been instituted, the licensee shall deliver to the borrower, or any one thereof, at the end of each billing cycle in which there is an outstanding balance of more than \$1 in the open-end loan account or with respect to which a finance charge is imposed, a periodic statement of the dates and amounts of interest and other charges, advances and other debits, and payments and other credits during the billing cycle, the balance of the account at the beginning of the billing cycle and as of the closing date of the billing cycle, and the minimum payment, if any, required on the account for the next billing cycle; together with such additional information as the bank examiner may require.

Every licensee shall during all business hours have prominently displayed in its office, located in such place and manner that all borrowers may be able clearly to read the same, a rate chart which shall set forth in such form as the bank examiner shall prescribe, the effective rate of interest a year charged by the licensee for the borrowing of money.

Every promissory note taken or accepted by a licensee as evidence of a loan made to a borrower shall, before its acceptance by the licensee, have clearly set forth a statement of the effective rate of interest a year charged by the licensee for the loan evidenced by the note.

The provisions of chapter 476 and section 408-15(1)(9) shall not apply to any loan made directly to a borrower, in compliance with this chapter."

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

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

(Approved April 16, 1981.)

## ACT 9

H.B. NO. 540

A Bill for an Act Relating to Interest on Judgments.

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

**SECTION 1.** The purpose of this Act is to increase interest on judgments from eight per cent to 10 per cent, so as to allow interest on judgments to realistically reflect the reasonable loss of use of money from time of verdict.

**SECTION 2.** Section 478-2, Hawaii Revised Statutes, is amended to read as follows:

**"§478-2 On judgment.** Interest at the rate of [eight] ten per cent a year, and no

more, shall be allowed on any judgment recovered before any court in the State, in any civil suit."

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

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

(Approved April 16, 1981.)

ACT 10

H.B. NO. 605

A Bill for an Act Relating to Employment Practices.

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

SECTION 1. Section 378-32, Hawaii Revised Statutes, is amended to read as follows:

**"§378-32 Unlawful suspension, discharge, or discrimination.** It shall be unlawful for any employer to suspend, discharge, or discriminate against any of his employees:

- (1) Solely because the employer was summoned as a garnishee in a cause where the employee is the debtor or because the employee has filed a petition in proceedings for a wage earner plan under Chapter XIII of the Bankruptcy Act; or
- (2) Solely because the employee has suffered a work injury which arose out of and in the course of his employment with the employer and which is compensable under chapter 386 unless the employee is no longer capable of performing his work as a result of the work injury and the employer has no other available work which the employee is capable of performing. Any employee who is discharged because of the work injury shall be given first preference of re-employment by the employer in any position which the employee is capable of performing and which becomes available after the discharge and during the period thereafter until the employee secures new employment. This paragraph shall not apply to any employer in whose employment there are less than three employees at the time of the work injury or who is a party to a collective bargaining agreement which prevents the continued employment or re-employment of the injured employee."

SECTION 2. Section 378-33, Hawaii Revised Statutes, is amended to read as follows:

**"§378-33 Complaint against unlawful suspension, discharge, or discrimination.**

(a) Any employee aggrieved by an alleged unlawful suspension, discharge, or discrimination may file with the department of labor and industrial relations a complaint in writing, stating the name and address of the employer alleged to have committed the unlawful suspension, discharge, or discrimination, and shall set forth the particulars thereof and other information as may be required by the department.

(b) No complaint shall be filed after the expiration of thirty days after the alleged act of unlawful suspension, discharge, or discrimination, except that an

## ACT 11

alleged act of unlawful discharge under section 378-32(2) occurring while the aggrieved employee is still physically or mentally incapacitated and unable to work shall be considered to have occurred on the date the aggrieved employee is able to return to work."

SECTION 3. Section 378-35, Hawaii Revised Statutes, is amended to read as follows:

**"§378-35 Findings and order.** If the department of labor and industrial relations finds, after a hearing, that an employer has unlawfully suspended, discharged, or discriminated against an employee in violation of section 378-32, the department may order the reinstatement, or reinstatement to the prior position, as the case may be, of the employee with or without back pay or may order the payment of back pay without any such reinstatement."

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

(Approved April 16, 1981.)

[Note. Act did not contain an effective date provision.]

## ACT 11

H.B. NO. 687

A Bill for an Act Relating to the Statewide Traffic Code.

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

SECTION 1. Section 291C-124, Hawaii Revised Statutes, is amended to read as follows:

**"§291C-124 Obstruction to driver's view or driving mechanism.** (a) No person shall drive a vehicle when it is so loaded, or when there are in the front seat such a number of persons, exceeding three, as to obstruct the view of the driver to the front or sides of the vehicle, or as to interfere with the driver's control over the driving mechanism of the vehicle.

(b) While operating a motor vehicle, no person shall hold in the person's lap, or allow to be in the driver's immediate area, any person, animal, or object which interferes with the driver's control over the driving mechanism of the vehicle.

(c) No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with his control over the driving mechanism of the vehicle."

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

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

(Approved April 16, 1981.)

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

A Bill for an Act Relating to Safe Drinking Water.

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

SECTION 1. Section 340E-7, Hawaii Revised Statutes, is amended to read as follows:

**“§340E-7 Prohibited acts.** (a) No supplier of water shall violate any rule or regulation promulgated pursuant to section 340E-2.

(b) No supplier of water shall violate any condition or provision of a variance, exemption, permit, or other written authorization issued under this chapter.

(c) No supplier of water shall violate any requirement of an emergency plan promulgated pursuant to section 340E-5.

(d) No supplier of water shall disseminate any false or misleading information with respect to notices required pursuant to section 340E-6 or with respect to remedial actions undertaken to achieve compliance with State Primary Drinking Water Regulations.

(e) No person shall violate any order issued by the director pursuant to this chapter.

(f) No person shall cause a public water system to violate the State Primary Drinking Water Regulations.

(g) No person shall violate underground injection control regulations promulgated pursuant to this chapter.”

SECTION 2. Section 340E-8, Hawaii Revised Statutes, is amended to read:

**“§340E-8 Penalties and remedies.** (a) Any person who violates section 340E-7, except subsection 340E-7(g), shall be civilly penalized not more than \$5,000 per day of violation.

(b) Any person who violates subsection 340E-7(g) shall be civilly penalized not more than \$7,500 per day of violation.

(c) Any person who willfully violates subsection 340E-7(g) shall be criminally fined not more than \$7,500 per day of violation.

(d) Any person may be enjoined from any violation of section 340E-7.

(e) The director may enforce this chapter in either administrative or judicial proceedings:

(1) **Administrative.** If the director determines that any person is violating any provision of this chapter, any rule or regulation promulgated thereunder, or any variance, exemption, permit, or other written authorization issued pursuant thereto, the director may have that person served with a notice of violation and an order. The notice shall specify the alleged violation. The order may require that the alleged violator do any or all of the following: cease and desist from the violation, pay a civil penalty as specified in this section, or appear before the director at a time and place specified in the order and answer the charges complained of. The order shall become final twenty days after service unless within those twenty days the alleged violator requests in writing a hearing before the director. Upon such request the director shall specify a time and place for the alleged violator to appear. When the director issues an order for

## ACT 13

immediate action to protect the public health from an imminent and substantial danger, the department shall provide an opportunity for a hearing within twenty-four hours after service of the order. After a hearing pursuant to this subsection, the director may affirm, modify, or rescind his order as he deems appropriate. The director may institute a civil action in any court of appropriate jurisdiction for the enforcement of any order issued pursuant to this subsection.

- (2) Judicial. The director may institute a civil action in any court of appropriate jurisdiction for injunctive relief to prevent violation of this chapter or any order or regulation issued pursuant to this chapter, in addition to any other remedy provided for under this section."

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. This Act shall not be construed to invalidate currently existing rules and regulations of the Department of Health.

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

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

(Approved April 16, 1981.)

## ACT 13

H.B. NO. 746

A Bill for an Act Relating to Employment Practices.

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

SECTION 1. Section 378-32, Hawaii Revised Statutes, is amended to read:

"**§378-32 Unlawful suspension or discharge from employment.** It shall be unlawful for any employer to suspend or discharge any of his employees:

(1) Solely because the employer was summoned as a garnishee in a cause where the employee is the debtor or because the employee has filed a petition in proceedings for a wage earner plan under Chapter XIII of the Bankruptcy Act; or

(2) Solely because the employee has suffered a work injury which arose out of and in the course of his employment with the employer and which is compensable under chapter 386 unless the employee is no longer capable of performing his work as a result of the work injury and the employer has no other available work which the employee is capable of performing. Any employee who is discharged because of the work injury shall be given first preference of re-employment by the employer in any position which the employee is capable of performing and which becomes available after the discharge and during the period thereafter until the employee secures

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

new employment. This paragraph shall not apply to any employer in whose employment there are less than three employees at the time of the work injury or who is a party to a collective bargaining agreement which prevents the continued employment or re-employment of the injured employee; or

- (3) Because the employee testified or was subpoenaed to testify in a proceeding under this part."

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

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

(Approved April 16, 1981.)

ACT 14

H.B. NO. 747

A Bill for an Act Relating to Temporary Disability Insurance.

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

SECTION 1. Section 392-78, Hawaii Revised Statutes, is amended to read:

**"§392-78 Recovery of benefits paid; individual's liability to repay benefits; insurer's appeal rights.** (a) Any person who has received any amount of benefits under this chapter to which he was not entitled shall be liable for such amount unless the overpayment was received without fault on the part of the recipient and its recovery would be against equity and good conscience. Notice of a reconsideration under section 392-79 in such cases shall specify that the person is liable to repay the amount of overpaid benefits, the basis of the overpayment, and the week or weeks for which such benefits were paid.

(b) The person liable shall, in the discretion of the referee, either repay such amount or have the amount deducted from any future benefits payable under this chapter within two years after the date of mailing of the notice of reconsideration or the final decision on an appeal from such reconsideration.

(c) In any case which under this section an individual is liable to repay any amount, the amount shall be payable without interest.

(d) In accordance with sections 392-71 and 392-72, an insurer, self-insured employer or the special fund for disability benefits shall have a right to appeal for the recovery of disability benefits which were overpaid an employee. Paragraphs (a) through (c) above shall be applicable in the recovery of overpaid benefits."

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

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

(Approved April 16, 1981.)

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 15

### ACT 15

H.B. NO. 759

A Bill for an Act Relating to Certificates of Occupation and Homestead Leases.  
*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 171-99, Hawaii Revised Statutes, is amended by amending subsection (e) to read:

"(e) Interests, descent; certificate of occupation or homestead lease. In case of the death of any occupier or lessee under an existing certificate of occupation or existing homestead lease, all the interest of the occupier or lessee, any conveyance, devise, or bequest to the contrary notwithstanding, in land held by the decedent by virtue of such certificate of occupation or homestead lease shall vest in the relations of the decedent as follows:

- (1) In the widow or widower;
- (2) If there is no widow or widower, then in the children;
- (3) If there are no children, then in the widows or widowers of the children;
- (4) If there are no such widows or widowers, then in the grandchildren;
- (5) If there are no grandchildren, then in the parents or surviving parent;
- (6) If there are no parents or surviving parent, then in the sisters and brothers;
- (7) If there are no sisters and brothers, then in the widowers or widows of the sisters and brothers;
- (8) If there are no such widowers or widows, then in the nieces and nephews;
- (9) If there are no nieces or nephews, then in the widowers or widows of the nieces and nephews;
- (10) If there are no such widowers or widows, then in the grandchildren of the sister and brothers;
- (11) If there are no grandchildren of any sister or brother, then in the State.

All the successors, except the State, shall be subject to the performance of the unperformed conditions of the certificate of occupation, or the homestead lease, in like manner as the decedent would have been subject to the performance if the decedent had continued alive; provided that if a widow or widower in whom the interest shall have vested, shall thereafter marry again and decease leaving a widower or widow and a child or children of the first marriage surviving, the interest of the deceased shall vest in such child or children; and provided further that in case two or more persons succeed together to the interest of any occupier or lessee, according to the foregoing provisions, they shall hold the same by joint tenancy so long as two or more shall survive, but upon the death of the last survivor, the estate shall descend as provided above."

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

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

(Approved April 16, 1981.)

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 16

H.B. NO. 761

A Bill for an Act Relating to the Marine Life Conservation Program.

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

SECTION 1. Section 190-1, Hawaii Revised Statutes, is amended to read:

**“§190-1 Conservation area; administration.** All marine waters of the State are hereby constituted a marine life conservation area to be administered by the department of land and natural resources subject to this chapter and any other applicable laws not inconsistent herewith or with any rules adopted pursuant hereto. No person shall fish for or take any fish, crustacean, mollusk, live coral, algae or other marine life, or take or alter any rock, coral, sand or other geological feature within any conservation district established pursuant to this chapter except in accordance with section 190-4 and rules adopted by the department pursuant hereto.”

SECTION 2. Section 190-3, Hawaii Revised Statutes, is amended to read:

**“§190-3 Rules.** The department of land and natural resources pursuant to chapter 91, shall adopt rules governing the taking or conservation of fish, crustacean, mollusk, live coral, algae, or other marine life as it determines will further the state policy of conserving, supplementing and increasing the State's marine resources. The rules may prohibit activities that may disturb, degrade, or alter the marine environment, establish open and close seasons, designate areas in which all or any one or more of certain species of fish or marine life may not be taken, prescribe and limit the methods of fishing, including the type and mesh and other description of nets, traps, and appliances, and otherwise regulate the fishing and taking of marine life either generally throughout the State or in specified districts or areas. The rules shall upon taking effect supersede any state laws inconsistent therewith.”

SECTION 3. Section 190-4, Hawaii Revised Statutes, is amended to read:

**“§190-4 Permits.** The department of land and natural resources may, in any conservation district, prohibit the taking of marine life or the engaging in activities prohibited by this chapter and rules adopted thereunder, except by permit issued by it for scientific, education, or other public purposes on such terms and conditions deemed necessary to minimize any adverse effect within the conservation district. 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 4. Section 190-5, Hawaii Revised Statutes, is amended to read:

**“§190-5 Penalty.** Any person violating this chapter, any rule adopted pursuant thereto, or the terms and conditions of any permit issued under section 190-4, shall be guilty of a petty misdemeanor and fined not more than \$500 or

## ACT 17

imprisoned not more than thirty days, or both."

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

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

(Approved April 16, 1981.)

ACT 17

H.B. NO. 764

A Bill for an Act Relating to Conservation of Wildlife and Plants.

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

SECTION 1. Section 195D-5, Hawaii Revised Statutes, is amended to read:

**"§195D-5 Conservation programs.** (a) The department shall conduct research on indigenous wildlife and plants and on endangered species and their associated ecosystems, and shall utilize the land acquisition and other authority vested in the department to carry out programs for the conservation, management, and protection of such species and their associated ecosystems. In addition, the department is hereby authorized to acquire by purchase, donation or otherwise, lands or interests therein needed to carry out the programs relating to the intent and purpose of this part.

(b) The office of the governor shall review other programs administered by the department and, to the extent practicable, utilize such programs in furtherance of the purposes of this section. The governor or his authorized representative shall also encourage other state and federal agencies to utilize their authorities in furtherance of the purposes of this section by carrying out programs for the protection of endangered species and by taking such action as may be necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of endangered species.

(c) In carrying out programs authorized by this section, the department may enter into agreements with federal agencies and with the counties for administration and management of any area established under this section or utilized for conserving, managing, enhancing, or protecting indigenous wildlife, plants, and endangered species.

(d) In carrying out programs authorized by this section, priority shall be given to the conservation and protection of those endangered wildlife and plant species and their associated ecosystems whose extinction within the State would imperil or terminate, respectively, their existence in the world.

(e) The department shall coordinate with the natural area reserves commission and the animal species advisory commission all research, investigations, lists of indigenous and endangered wildlife and plants and programs for the conservation, management, enhancement and protection of species that are authorized by this part.

(f) The department may permit, under terms and conditions adopted by

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

rule, the taking, possession, transportation or exportation of any indigenous wildlife or plant on the endangered list for scientific purposes and for propagation of such species in captivity for preservation purposes."

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

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

(Approved April 16, 1981.)

**ACT 18**

H.B. NO. 771

A Bill for an Act Relating to the Imposition of Rules During Shortages of Petroleum Products.

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

**SECTION 1.** Section 125C-4, Hawaii Revised Statutes, is amended to read:

**"§125C-4 Promulgation, filing, and taking effect of rules.** Upon the occurrence of a shortage, the governor may proceed without† notice or hearing or upon such abbreviated notice and hearing as he finds practicable to adopt rules authorized under this chapter to be effective for a period of not longer than one hundred twenty days without renewal. Any rule so adopted may be amended or repealed by the governor without prior notice or hearing or upon abbreviated notice and hearing prior to the expiration of the one-hundred-twenty-day period; provided that no amendment shall extend the rule beyond the original period of one hundred and twenty days. To be effective after the one-hundred-twenty-day period, such rules must be adopted pursuant to chapter 91. Each rule adopted, amended, or repealed shall become effective as adopted, amended, or repealed upon approval by the governor and filing with the lieutenant governor. Each rule in effect shall have force and effect of law, but the effect of each rule may be temporarily or indefinitely suspended by the governor by written declaration filed with the lieutenant governor. Each rule temporarily suspended shall take effect again immediately upon expiration of the suspension period. Each rule indefinitely suspended shall take effect immediately upon the filing with the lieutenant governor of the written declaration by the governor terminating the suspension."

**SECTION 2.** New material is underscored.

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

(Approved April 16, 1981.)

**ACT 19**

H.B. NO. 1125

A Bill for an Act Relating to the Hawaii Youth Correctional Facilities.

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

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

†In section prior to amendment, here appeared the word "prior".

## ACT 20

SECTION 1. Section 352-30, Hawaii Revised Statutes, is amended to read as follows:

**“§352-30 Delegation of responsibilities.** The director may delegate any of the director's responsibilities pursuant to this chapter to a representative of the department except those that relate to discretionary discharge before the term of the person's commitment has ended.”

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

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

(Approved April 16, 1981.)

## ACT 20

H.B. NO. 1466

A Bill for an Act Relating to Retail Installment Sales.

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

SECTION 1. Section 476-3.1, Hawaii Revised Statutes, is amended to read as follows:

**“§476-3.1 Balloon payments.** With respect to any sale of goods purchased primarily for a personal, family or household purpose, which is subject to the provisions of this chapter, if any scheduled payment is more than twice as large as the average of earlier scheduled payments, the buyer has the right to refinance the amount of that payment at the time it is due without penalty. If the principal balance of the original loan is less than \$10,000, the terms of the refinancing shall be no less favorable to the buyer than the terms of the original sale. These provisions do not apply to the extent that the payment schedule is adjusted to the seasonal or irregular income of the buyer.”

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

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

(Approved April 16, 1981.)

## ACT 21

H.B. NO. 1484

A Bill for an Act Relating to Corporations.

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

SECTION 1. Section 416-22, Hawaii Revised Statutes, is amended to read as follows:

**“§416-22 Extensions and renewals of charters and articles.** (a) The director of regulatory agencies shall at any time not more than fifteen years before the

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

expiration of any articles of association or charter of any corporation extend the duration of the same, and shall at any time not more than five years after the expiration of any articles of association or charter renew the same, in each case for such period of extension or renewal as is agreed upon, which may be perpetual, and in each case on application to him for that purpose, upon the filing in his office of a verified certificate signed by any two authorized officers of the corporation, showing that the proposed extension or renewal has been approved by the vote of the holders of not less than three-fourths of all its issued and outstanding shares of stock, voting without regard to class, at a meeting duly called and held for the purpose, or, in the case of a nonstock corporation, by the vote of not less than three-fourths of the members present at a duly called meeting thereof; provided, that no extension of the charter of a nonprofit corporation shall become effective until the same is allowed by the director.

All extensions or renewals of articles of association and charters granted before April 1, 1939, are ratified and confirmed.

(b) If the requisite number of stockholders of any corporation approve the extension of the duration of the articles of association of any corporation, then any holder of voting or nonvoting shares who has not approved the extension at the meeting at which the same was approved, may make written demand upon the corporation for the payment to him of the fair market value of his shares. The fair market value shall be determined as of the close of business of the day before the vote of the stockholders approving the action. The demand for payment shall be subject to and processed in the same manner as a demand made by a dissenting stockholder under the provisions of sections 417-20 to 417-28."

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

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

(Approved April 16, 1981.)

A Bill for an Act Relating to Antitrust Suits by the State; Amount of Recovery.

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

**SECTION 1.** 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

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 23

for by this section, or by any comparable provisions of federal law.

(c) This chapter shall not be construed to deny the right to sue for any<sup>†</sup> damages to any person by reason of such person's status as indirect purchaser injured by illegal overcharge.

(d) No person other than the attorney general of the State shall be authorized to bring a class action in any court of this State for indirect purchasers asserting claims under this chapter. Such action shall be brought as parens patriae on behalf of natural persons residing in the State, to secure monetary relief as provided in this section for injuries sustained by such natural persons to their property by reason of any violation of this chapter.

(e) 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 2. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved April 16, 1981.)

## ACT 23

H.B. NO. 1736

A Bill for an Act Relating to Real Estate.

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

SECTION 1. Section 467-9.6, Hawaii Revised Statutes, is amended to read as follows:

**“§467-9.6 Examination fee.** Every applicant for a real estate examination shall file an application with either the real estate commission or the testing service agency designated by the real estate commission pursuant to rules of the commission to provide the testing service. The application shall be in a form prescribed by the commission and only applicants satisfying the prerequisites for written examination, as provided for in section 467-9.5 and the rules of the commission, shall be admitted to the examination. Every application shall be accompanied by an examination fee as determined by the commission by rules adopted pursuant to chapters 26 and 91.

Applicants may apply for real estate licenses in such manner as prescribed by the commission.”

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

<sup>†</sup>The word “any” is new but was not underscored.

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

SECTION 3. This Act shall take effect on January 1, 1982.

(Approved April 16, 1981.)

ACT 24

H.B. NO. 1748

A Bill for an Act Relating to Mopeds.

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

SECTION 1. Chapter 291, Hawaii Revised Statutes, is amended by adding a new section to Part I to be appropriately designated and to read as follows:

**"§291- Traffic laws apply to persons driving mopeds.** Every person driving a moped upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle under this chapter except as to the special provisions of this part and except as to those provisions of this chapter which by their nature can have no application."

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

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

(Approved April 16, 1981.)

ACT 25

H.B. NO. 1885

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 new sections to be appropriately designated and to read:

**"§261- Custody and disposal of abandoned aircraft.** (a) Any aircraft:

- (1) Which has been left unattended for a continuous period of more than thirty days, and
- (2) Which is located upon an airport, as defined in section 261-1(3), under the jurisdiction or control of the State,

may be deemed abandoned and taken into custody and disposed of by the director of transportation pursuant to this chapter.

(b) Upon taking custody of any such aircraft a written notice shall immediately be posted on the aircraft and a duplicate original thereof shall be sent by certified mail, with a return receipt, to the registered owner of the aircraft at the last address shown on the records of the Federal Aviation Administration or to such other address known to the department of transportation which is more current; to all lien holders who have filed a financing statement indexed in the name of the registered owner in the state bureau of conveyances or who are shown on the records of the Federal Aviation Administration; and to any other person known to have any

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

interest in the aircraft whose address is known to the department of transportation. The notice shall contain a brief description of the aircraft, the location of custody, and the intended disposition of the aircraft if not repossessed within twenty days after the mailing of the notice. A notice need not be sent to any purported owner or any other person whose interest in the aircraft is not recorded with the Federal Aviation Administration or not known to the department of transportation.

(c) The department may assess and recover as against the owner of the aircraft, all airport use charges, landing fees, holding room use charges, towing, handling, aircraft storage charges, appraisal, advertising and other reasonable expenses incurred by the department in connection with the aircraft.

(d) If the aircraft is not repossessed within twenty days after the mailing of the notice, the aircraft shall be disposed of by public auction, through oral tenders, or by sealed bids, after public advertisement has been made once in a newspaper of general circulation; provided that the public auction shall not be held less than five days after the publication of the advertisement. Where no bid is received, the aircraft may be sold by negotiation, disposed of as junk or donated to any governmental agency.

(e) Any person having an interest in the aircraft may take possession of the aircraft prior to the date of public auction upon payment to the department of transportation of all airport use charges, landing fees, holding room use charges, towing, handling, aircraft storage charges, appraisal, advertising and other expenses chargeable to the aircraft or incurred by the department in connection with the aircraft. If the person taking possession of the aircraft is not the registered owner, that person shall, prior to taking possession of the aircraft, pay the foregoing fees, charges and expenses and post adequate security which shall not exceed the value of the aircraft. The security, if not forfeited, shall be returned two years after receipt.

(f) Public auction shall not be required when the appraised value of any aircraft, as determined by an independent appraiser who has had at least one year of experience in the sale or purchase of aircraft, is less than \$100. Upon that determination and after public advertisement has been made once in a newspaper of general circulation, the director of transportation may sell the aircraft by negotiation, dispose of it as junk or donate the aircraft to any governmental agency.

(g) The transfer hereunder shall be evidenced by a bill of sale from the department of transportation, shall be considered a transfer by operation of law and shall be governed by provisions applicable thereto.

**§261- Disposition of proceeds of sale.** The department of transportation shall deposit into the airport revenue fund, that portion of the proceeds of the sale of an aircraft as shall represent the storage and other airport fees and charges due the department, the expenses of the auction, and any other expense incurred by the department in taking into custody and disposing of an aircraft. The balance, if any, shall be deposited into the general fund of the State. The owner may recover any such balance of the proceeds from the State only if he files a claim therefor with the department of budget and finance within five years after the execution of the bill of sale. A lien holder shall receive priority of payment from the balance of the proceeds to the extent of his lien on the aircraft. If the proceed of the sale are insufficient to cover the storage and other airport fees and charges, the expenses of the auction and other expenses of the department in taking into custody and disposing of the aircraft, the department of transportation may, within five years, bring an action for the

deficiency in a court of appropriate jurisdiction against the person who was the owner of the aircraft at the time custody was taken by the department.

**§261- Custody and disposal of derelict aircraft.** (a) An aircraft which has been left unattended for a continuous period of more than twenty-four hours is a derelict, if:

- (1) The aircraft is obstructing a taxiway, runway or ramp parking area, or is endangering life or property; or
- (2) The aircraft has been parked or otherwise left at a State airport or on public property contrary to law or rules having the force and effect of law, or the aircraft has been left on private property without authorization of the owner or occupant of the property and if:
  - (A) The aircraft's certificate of registration or aviation document is no longer effective and the registered owner no longer resides at the address listed in the aircraft registration document records of the Federal Aviation Administration; or
  - (B) The last registered owner disclaims ownership and the current owner's name or address cannot be determined; or
  - (C) The aircraft identification numbers and other means of identification have been removed so as to nullify efforts to locate or identify the owner; or
  - (D) The aircraft registration records of the Federal Aviation Administration contain no record that the aircraft has ever been registered and the owner's name or address cannot be determined.
- (b) The director of transportation may cause a derelict aircraft to be immediately taken into custody. Upon taking custody of a derelict aircraft the director shall concurrently:
  - (1) Publish a notice of intended disposition, once, in a newspaper of general circulation in the State;
  - (2) When possible, post a notice of intended disposition on the aircraft; and
  - (3) Serve a duplicate original of the notice of intended disposition by certified mail, return receipt requested:
    - (A) On the registered owner of the aircraft at the last address shown on records in the Federal Aviation Administration,
    - (B) On all lien holders who have filed a financing statement indexed in the name of the registered owner in the bureau of conveyances or who are shown in the records of the Federal Aviation Administration, and
    - (C) On any other person known to have an interest in the aircraft whose address is known to the department of transportation. If the aircraft is not repossessed within twenty days after the publication and mailing of the notice, whichever occurs later, the aircraft may be disposed of by negotiated sale, except that, when two or more purchasers indicate an interest in purchasing the aircraft, the aircraft will be sold at public auction to the highest bidder. If no purchaser expresses a desire to purchase the aircraft, the aircraft may be destroyed or disposed of by any other method authorized for abandoned aircraft.

**§261- Aircraft or property taken into legal custody; unauthorized control.** No person shall exercise control over an aircraft or other property that is under legal custody, seizure, or detention by the department of transportation.

**§261- Disposal of aircraft by persons in aircraft repair business.** (a) When any person abandons an aircraft upon the premises of an aircraft repair business, the owner of the business or the authorized representative of the owner may sell or dispose of the aircraft in accordance with this section.

(b) An aircraft shall be deemed to be abandoned upon satisfaction of all the following conditions:

- (1) The service requested or required by a person whose aircraft is towed or brought to an aircraft repair business, such as towing and rendering estimates of the cost of repairs, has been performed; and
- (2) No authorization is given to perform any further service respecting the aircraft but the aircraft is left on the repair business premises; and
- (3) The owner of the repair business or his authorized representative has given notice by registered or certified mail:
  - (A) To the registered owner of the aircraft at the address on record at the aircraft repair business and the address on record in the Federal Aviation Administration, and
  - (B) To any person with a recorded interest in the aircraft, stating that if the aircraft is not repossessed within thirty days after the mailing of the notice, it will be sold or disposed of. The notice also shall contain a description of the aircraft and its location. The notice need not be sent to any purported owner or any person with an unrecorded interest in the aircraft whose name or address is not known and cannot be determined; and
- (4) The aircraft is not repossessed within the thirty-day period specified in paragraph (3).

(c) When an aircraft is abandoned, the owner of the aircraft repair business, or the authorized representative of the owner of the repair business, after one public advertisement in a newspaper of general circulation in the State, may negotiate the sale of the aircraft or dispose of it; provided that the aircraft shall not be sold or disposed of less than five days after the publication of the advertisement.

(d) The authorized seller of the aircraft shall be entitled to the proceeds of the sale to the extent that compensation is due him for services rendered in respect of the aircraft, including reasonable and customary charges for towing, handling, storage, and the cost of the notices and advertising required by this section. A lien holder shall receive priority of payment from the balance to the extent of his lien. Any remaining balance shall be forwarded to the registered owner of the aircraft, if he can be found. If he cannot be found, the balance shall be deposited with the director of finance of the State and shall be paid out to the registered owner of the aircraft, if a proper claim is filed therefor within one year from the execution of the sale agreement. If no claim is made within the year allowed, the money shall become a state realization.

(e) The transfer of title and interest by sale under this section is a transfer by operation of law and a bill of sale executed by the authorized seller shall be sufficient to authorize the transfer of title or interest.

**§261- Trespass to aircraft; penalty.** Whoever without right, boards or remains in or upon any aircraft of another within a state airport shall be fined not more than \$250, or imprisoned not more than three months, or both.

**§261- Questioning and detaining suspected persons aboard an aircraft.** A police officer may detain any person found upon an aircraft, under circumstances as reasonably justify a suspicion that the person boarded without permission, for the purpose of demanding, and may demand the name and address of the person and the nature of the person's business upon the aircraft. If the police officer has reason to believe that the person has no right to be upon the aircraft, the police officer may arrest the person without a warrant on the charge of violating section - .

SECTION 2. Section 261-1, Hawaii Revised Statutes, is amended by adding a new definition to read:

"(13) "Police officer" means a police officer and any other state or county officer charged with the enforcement of state laws."

SECTION 3. New material is underscored.\*

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

(Approved April 16, 1981.)

## ACT 26

H.B. NO. 206

A Bill for an Act Relating to the Hawaii 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 for offense of attempted murder.** The court shall sentence a person who has been convicted of attempted murder to an indeterminate term of imprisonment. In such cases the court shall impose the maximum length of imprisonment as follows:

- (1) Life imprisonment without possibility of parole in the attempted murder of:
  - (a) A peace officer while in the performance of his duties, or
  - (b) A person known by the defendant to be a witness in a murder prosecution, or
  - (c) A person by a hired killer, in which event both the person hired and the person responsible shall be punished under this subsection, or
  - (d) A person while the defendant was imprisoned.

As part of such sentence, the court shall order the director of the department of social services and housing and the Hawaii paroling authority to prepare an application for the government to commute the sentence to life with parole at the end of twenty years of imprisonment.

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## **ACT 27**

- (2) Life imprisonment with possibility of parole in all other cases of attempted murder. The minimum length of imprisonment shall be determined by the Hawaii paroling authority in accordance with section 706-669."

**SECTION 2.** New statutory material is underscored.\*

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

(Approved April 22, 1981.)

## **ACT 27**

**H.B. NO. 207**

**A Bill for an Act Relating to Disposition of Defendants.**

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

**SECTION 1.** Section 706-606, Hawaii Revised Statutes, is amended to read as follows:

**"§706-606 Sentence for offense of murder.** The court shall sentence a person who has been convicted of murder to an indeterminate term of imprisonment. In such cases the court shall impose the maximum length of imprisonment as follows:

- (a) Life imprisonment without possibility of parole in the murder of:
- (i) A peace officer while in the performance of his duties, or
  - (ii) A person known by the defendant to be a witness in a murder prosecution, or
  - (iii) A person by a hired killer, in which event both the person hired and the person responsible for hiring the killer shall be punished under this subsection, or
  - (iv) A person while the defendant was imprisoned.

As part of such sentence the court shall order the director of the department of social services and housing and the Hawaii paroling authority to prepare an application for the governor to commute the sentence to life with parole at the end of twenty years of imprisonment.

- (b) Life imprisonment with possibility of parole [or twenty years as the court determines,] in all other cases. The minimum length of imprisonment shall be determined by the Hawaii paroling authority in accordance with section 706-669."

**SECTION 2.** Statutory material to be repealed is bracketed.

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

(Approved April 22, 1981.)

## **ACT 28**

**H.B. NO. 956**

**A Bill for an Act Relating to Elderly Abuse or Neglect.**

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

*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 ELDERLY ABUSE OR NEGLECT”**

**§ -1 Definitions.** For the purposes of this chapter:

- (1) “Doctor” means any person licensed to practice medicine, osteopathy, dentistry, or any other healing art in the State;
- (2) “Elderly abuse or neglect” means actual or threatened physical injury, psychological abuse or neglect, sexual abuse, negligent treatment, or maltreatment of an elderly person caused by another person; and
- (3) “Elderly person” means any person who is at least sixty-five years of age.

**§ -2 Reports.** Any doctor, registered nurse, social worker, police officer, other law enforcement officer, medical examiner, or coroner acting in the person’s professional capacity who has reason to believe that an elderly person is or has been the subject of elderly abuse or neglect shall promptly report the matter orally to the department of social services and housing. Any member of the staff of a hospital or medical facility examining, attending, or treating an elderly person who has reason to believe that the elderly person is or has been the subject of elderly abuse or neglect shall immediately notify the person in charge of the hospital or medical facility or the person’s designated representative. The person in charge of the hospital or medical facility or the designated representative shall immediately notify the department of social services and housing in accordance with this chapter.

The initial oral report shall be followed as soon as possible by a report in writing to the department of social services and housing; provided that where a police department is the initiating agency, a written report shall not be required unless the police department has declined to take further action and the department of social services and housing informs the police department that it intends to pursue the matter of the orally reported incident of elderly abuse or neglect. All written reports shall contain the name and address of the elderly person and the person who is alleged to have committed or been responsible for the elderly abuse or neglect, if known, the nature and extent of the elderly person’s injury or harm, and any other information the reporter believes might be helpful in establishing the cause of the elderly abuse or neglect.

Any other person who has reason to believe that an elderly person is or has been the subject of elderly abuse or neglect may report the matter orally to the department of social services and housing.

**§ -3 Action on reporting.** The department of social services and housing, upon receiving an oral report under section -2, shall, where the department deems it appropriate, take action towards preventing further abuse or neglect. If the elderly person who is or has been the subject of elderly abuse or neglect has suffered injury or harm so serious that criminal prosecution of the person who committed the elderly abuse or neglect is warranted, the department shall report its findings to the

## **ACT 28**

appropriate police department or prosecuting attorney.

The department of social services and housing shall maintain a central registry of reported cases.

**§ -4 Immunity from liability.** Any person participating in good faith in the making of a report pursuant to this chapter shall have immunity from any liability, civil or criminal, that might be otherwise incurred or imposed by or as a result of the making of such report. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report.

**§ -5 Exemption.** No elderly person who in good faith is under treatment by spiritual means alone through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall be considered, for this reason alone, to be medically neglected under this chapter.

**§ -6 Admissibility of evidence.** Neither the doctor-patient privilege nor the husband-wife privilege shall be ground for excluding evidence regarding an elderly person's harm or injury, or the cause thereof, in any judicial proceeding resulting from a report pursuant to this chapter.

**§ -7 Rules.** The department of social services and housing shall adopt rules under chapter 91 for the purposes of this chapter."

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

(Approved April 22, 1981.)

## **ACT 29**

S.B. NO. 28

A Bill for an Act Relating to Absentee Voting.

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

**SECTION 1.** Chapter 15, Hawaii Revised Statutes, is amended as follows:

1. Section 15-2 is amended to read:

**"§15-2 Who may vote by absentee ballot.** Any person registered to vote may cast an absentee ballot in the manner provided in this chapter and rules adopted by the chief election officer."

2. Section 15-4 is amended to read:

**"§15-4 Request for absentee ballot.** Any person registered to vote may request an absentee ballot in person or in writing from the clerk not earlier than on the sixtieth day and not later than 4:30 p.m. on the seventh day prior to the election. The clerk may waive any or all of the foregoing requirements in special cases as provided in the rules adopted by the chief election officer.

The request shall include information such as the address under which the person is registered and the address to which he wishes his ballot forwarded. The request, when made for any primary or special primary election, may include an additional request for an absentee ballot to be voted at any election immediately following the primary or special primary provided the person so indicates in his request.

Subsequent to the closing of registration for each election, the clerk may mail a request form for an absentee ballot to each voter in a remote area who has not already made such a request. The request form shall be accompanied by:

- (1) A stamped, self-addressed envelope; and
- (2) Instructions regarding the manner of completing and returning the request form."

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

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

(Approved April 29, 1981.)

ACT 30

S.B. NO. 73

A Bill for an Act Relating to Solicitation of Funds From the Public.

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

SECTION 1. Section 467B-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Every charitable organization, except as otherwise provided in this chapter, which intends to solicit contributions within the State, or have funds solicited on its behalf, shall, prior to any solicitation, file a registration statement with the director upon forms prescribed by the director, which shall be valid for one full year and which shall be refiled in the next and each following year in which the charitable organization is engaged in solicitation activities. It shall be the duty of the president, chairman, or principal officer of the charitable organization to file the statement required under this chapter. The statement shall be sworn to and shall contain the following information:

- (1) The name of the charitable organization and the purpose for which it was organized.
- (2) The principal address of the charitable organization and the addresses of any office in the State. If the charitable organization does not maintain an office, the name and address of the person having custody of its financial records.
- (3) The name and address of any chapter, branch, or affiliate in the State.
- (4) The date and place when the charitable organization was legally established, the form of its organization, and a reference to any determination of its tax-exempt status under the Internal Revenue Code.
- (5) The name and address of all officers, directors, trustees, and the principal salaried executive staff officer.
- (6) A copy of a balance sheet and income and expense statement audited by an independent public accountant for the immediately preceding fiscal year, or a copy of a financial statement audited by an independent public

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

accountant covering, in a consolidated report, complete information as to all the preceding year's fund-raising activities of the charitable organization, showing the kind and amount of funds raised, costs and expenses incidental thereto and allocation or disbursement of funds raised. The statement shall include the salary or other compensation paid to a professional solicitor or professional fund-raising counsel whether expressed in a fixed dollar amount or as a per cent of the total moneys, funds, pledges, or other property raised or received.

- (7) Whether the charitable organization intends to solicit contributions from the public directly or have the solicitation done on its behalf by others.
- (8) Whether the charitable organization is authorized by any other governmental authority to solicit contributions and whether it is or has ever been enjoined by any court from soliciting contributions.
- (9) The general purpose for which the contributions to be solicited shall be used.
- (10) The name under which it intends to solicit contributions.
- (11) The name of the individual or officer of the charitable organization who will have final responsibility for the custody of the contributions.
- (12) The name of the individual or officer of the charitable organization responsible for the final distribution of the contributions."

SECTION 2. Section 467B-6, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Every written contract or, in the absence of a contract in writing, a written statement of the nature of the arrangement between a professional solicitor and a charitable organization shall be filed with the department within ten days after the contract or arrangement is concluded. If the contract or arrangement with a professional solicitor does not provide for compensation on a percentage basis, the department shall examine the contract to ascertain whether the compensation to be paid in the circumstances is likely to exceed twenty per cent of the total moneys, pledges, or other property raised or received as a result of the contract or arrangement; if the reasonable probabilities are that the compensation will exceed twenty per cent of the total moneys, pledges, or other property the director shall disapprove the contract or arrangement within ten days after its filing unless special facts or circumstances are presented showing that a cost higher than twenty per cent is reasonable. No registered charitable organization or professional solicitor shall carry out or execute a disapproved contract, or receive or perform services, or receive or make payments, pursuant to a disapproved contract. Any party to a disapproved contract shall, upon written request made within thirty days of the disapproval, be given a hearing before the director within thirty days after such request is filed."

SECTION 3. Section 467B-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) No charitable organization shall pay or agree to pay to a professional solicitor or his agents, servants, or employees a total amount in excess of twenty per cent (including reimbursement for expenses incurred) of the total moneys, pledges, or other property raised or received as a result of the solicitation activities or campaigns unless special facts or circumstances are presented showing that a cost higher

than twenty per cent is reasonable."

SECTION 4. Chapter 467B, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§467B- Rules.** The director may make, amend, or repeal such rules pursuant to chapter 91, to implement the provisions of this chapter."

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

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

(Approved April 29, 1981.)

## ACT 31

S.B. NO. 123

A Bill for an Act Relating to Promoting Dangerous or Harmful Drugs.

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

SECTION 1. Section 712-1241, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(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 any of the respective alkaloids or salts of heroin, morphine, or cocaine; 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:
    - (A) One-eighth ounce or more, containing any of the respective alkaloids or salts of heroin, morphine, or cocaine; or
    - (B) One-half ounce or more, containing any other dangerous drug; or
- (c) Distributes any dangerous drug in any amount to a minor."

SECTION 2. Section 712-1244, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) A person commits the offense of promoting a harmful drug in the first degree if he knowingly:

- (a) Possesses four hundred or more capsules or tablets containing one or

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

more of the harmful drugs or one or more of the marijuana concentrates, or any combination thereof; or

- (b) Possesses one or more preparations, compounds, mixtures, or substances, of an aggregate weight of one ounce or more containing one or more of the harmful drugs or one or more of the marijuana concentrates, or any combination thereof; or
- (c) Distributes fifty or more capsules or tablets containing one or more of the harmful drugs or one or more of the marijuana concentrates, or any combination thereof; or
- (d) Distributes one or more preparations, compounds, mixtures, or substances, of an aggregate weight of one-eighth ounce or more, containing one or more of the harmful drugs or one or more of the marijuana concentrates, or any combination thereof; or
- (e) Distributes any harmful drug or any marijuana concentrate in any amount to a minor."

SECTION 3. Section 712-1247, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) A person commits the offense of promoting a detrimental drug in the first degree if he knowingly:

- (a) Possesses four hundred or more capsules or tablets containing one or more of the Schedule V substances; or
- (b) Possesses one or more preparations, compounds, mixtures, or substances of an aggregate weight of one ounce or more containing one or more of the Schedule V substances; or
- (c) Distributes fifty or more capsules or tablets containing one or more of the Schedule V substances; or
- (d) Distributes one or more preparations, compounds, mixtures, or substances of an aggregate weight of one-eighth ounce or more, containing one or more of the Schedule V substances; or
- (e) Possesses one or more preparations, compounds, mixtures, or substances of an aggregate weight of two and two-tenths pounds or more, containing any marijuana; or
- (f) Distributes one or more preparations, compounds, mixtures, or substances of an aggregate weight of two ounces or more, containing any marijuana; or
- (g) Distributes any marijuana or any Schedule V substance in any amount to a minor."

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

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

(Approved April 29, 1981.)

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 32

S.B. NO. 273

A Bill for an Act Relating to School Absences and Reporting.

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

SECTION 1. The fact that a great deal of juvenile crime occurs during unauthorized absences from school offers an opportunity to prevent at least a part of juvenile crime. While we cannot turn our schools into prisons, attendance can be taken throughout the school day and absences reported to parents immediately. This would help to reduce such absences and contribute toward the enforcement and effectiveness of the truancy laws. Furthermore, making attendance records available to police can serve as a deterrent and would assist the police in more swiftly apprehending those juveniles who commit offenses while absent from school.

The purpose of this Act is to provide that attendance records shall be made available to authorized police officers upon request.

SECTION 2. Chapter 298, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§298- Attendance records; availability to authorized police officers.** Dates of attendance of a student shall be made available to authorized police officers upon request.”

SECTION 3. New statutory material is underscored.\*

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

(Approved April 29, 1981.)

## ACT 33

S.B. NO. 440

A Bill for an Act Relating to Pesticides.

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

SECTION 1. Section 149A-2, Hawaii Revised Statutes, is amended by amending the definition of “misbranded” to read:

“(22) “Misbranded” includes any of the following:

- (A) The labeling of the pesticide or device bears any statement, design or graphic representation relative thereto or to its ingredients or functions which is false or misleading in any particular;
- (B) The pesticide is contained in a package or other container or wrapping which does not conform to the standards established by federal law;
- (C) The pesticide is an imitation of, or is offered for sale under the name of, another pesticide;
- (D) The label does not bear the federal registration number assigned to

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

- each establishment in which it was produced;
- (E) Any word, statement, or other information required by or under authority of the federal law to appear on the label or labeling is not prominently placed thereon with such conspicousness (as compared with other words, statements, designs, or graphic matter 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;
- (F) The labeling accompanying the pesticide does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, together with any requirements imposed under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, are adequate to protect health and the environment;
- (G) The label does not contain a warning or caution statement which may be necessary and if complied with, together with any requirements imposed under federal law, is adequate to protect health and the environment;
- (H) The label does not bear an ingredient statement on that part of the immediate container (and on the outside container or wrapper of the retail package, if there be one, through which the ingredient statement on the immediate container cannot be clearly read) which is presented or displayed under customary conditions of purchase, except that a pesticide is not misbranded under this section if:
- (i) The size or form of the immediate container, or the outside container or wrapper of the retail package, makes it impracticable to place the ingredient statement on the part which is presented or displayed under customary conditions of purchase; and
  - (ii) The ingredient statement appears prominently on another part of the immediate container, or outside container or wrapper, permitted by the department;
- (I) The labeling does not contain a statement of the use classification under which the product is registered;
- (J) There is not affixed to its container, and to the outside container or wrapper of the retail package, if there be one, through which the required information on the immediate container cannot be clearly read, a label bearing:
- (i) The name and address of the producer, registrant or person for whom produced;
  - (ii) The name, brand, or trademark under which the pesticide is sold;
  - (iii) The net weight or measure of the content; provided that the United States Environmental Protection Agency Administrator may permit reasonable variations; and
  - (iv) When required by federal regulations to effectuate the purposes of this law, the registration number assigned to the

pesticide under federal law, and the use classification; and

- (K) The pesticide contains any substance or substances in quantities highly toxic to man, unless the label shall bear, in addition to any other matter required by this law:
- (i) The skull and crossbones;
  - (ii) The word "poison" prominently in red on a background of distinctly contrasting color; and
  - (iii) A statement of a practical treatment (first aid or otherwise) in case of poisoning by the pesticide."

SECTION 2. Section 149A-11, Hawaii Revised Statutes, is amended to read:

**"§149A-11 Prohibited acts.** (a) Except as otherwise exempted in section 149A-12, it shall be unlawful for any person to distribute, solicit, sell, offer for sale, hold for sale, transport, deliver for transportation, or receive and having so received, deliver or offer to deliver to any person in intrastate commerce or between points within this State through any point outside this State any of the following:

- (1) Any pesticide which is not licensed pursuant to section 149A-13, or any pesticide if any of the claims made for it or any of the directions of its use differ in substance from the representations made in connection with its licensing; or if the composition of a pesticide differs from its composition as represented in connection with its licensing; provided that in the discretion of the department, a change in the labeling or formula of a pesticide may be made within a licensing period without requiring an additional licensing of the product.
- (2) Any pesticide unless it is in the licensee's or the manufacturer's unbroken immediate container, and there is affixed to the container, and to the outside container or wrapper of the retail package, if any, through which the required information on the immediate container cannot be clearly read, a label bearing such information pursuant to section 149A-15.
- (3) Any pesticide which contains any substance or substances in quantities highly toxic to man, determined as provided in section 149A-19, unless the label bears, in addition to any other matter required by this chapter:
  - (A) A symbol of the skull and crossbones;
  - (B) The word "POISON" prominently, in red, on a background of distinctly contrasting color; and
  - (C) A statement of emergency medical treatment or an antidote when appropriate for the pesticide.
- (4) The pesticides containing any of the ingredients commonly known as standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, sodium fluoride, sodium fluosilicate, or barium fluosilicate, unless they have been distinctly colored or discolored or any other white powder pesticide which the board, after investigation of and after public hearing on the necessity for such action for the protection of the public health and the feasibility of such coloration or discoloration, requires to be distinctly colored or discolored, unless it has been so colored or discolored pursuant to section 149A-16.
- (5) Any pesticide or device which is adulterated or misbranded as defined in section 149A-2.

- (6) Any pesticide or device that is an imitation of another pesticide or device.
- (7) Any restricted pesticide unless the person has a license† issued in accordance with section 149A-17.
- (8) Any restricted pesticide to persons other than a certified pesticide applicator or any uncertified personnel under his supervision, or a licensed dealer, wholesaler, or retailer.
- (b) It shall be unlawful to:
  - (1) Detach, alter, deface, or destroy, in whole or in part, any label or alter any labeling of a pesticide unless such action is taken with the approval of the department to correct an improper label or labeling under section 24(c), Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended.
  - (2) Add any substance to, or take any substance from, a pesticide in a manner that may defeat the purpose of this chapter.
  - (3) Use for a person's own advantage or to reveal any information relative to formulas of products acquired in the administration of this chapter, to persons other than to the chairman or proper officials or employees of the State or the federal government, or the courts of this State or the federal government in response to a subpoena, or to physicians, or in emergencies to pharmacists and other qualified persons for use in the preparation of antidotes.
  - (4) For any pesticide dealer, wholesaler, or retailer to expose or to offer for sale or to solicit or receive orders for the sale of restricted pesticides unless the dealer, wholesaler, or retailer has applied for and has obtained a license from the department.
  - (5) For any pesticide dealer, wholesaler, or retailer to expose or to offer for sale or to solicit or receive orders for the sale of restricted pesticides to any person other than a certified pesticide applicator.
  - (6) For any pesticide dealer, wholesaler, or retailer to make any verbal or written claim or representation relating to any pesticide product that is inconsistent with the specific pesticide product label."

**SECTION 3.** Section 149A-13, Hawaii Revised Statutes, is amended by amending subsection (b) to read:

"(b) The licensee shall pay a minimum fee of \$10 for each year, or fraction thereof, that the pesticide is licensed. Licensing fee may be increased from time to time by regulations but such increase shall not be in excess of \$5 for any one year. The term of the license shall be for a period of three years, beginning January 1, 1982, expiring on December 31, 1984, and on December 31 of each third year thereafter. In case of renewal of license, a statement shall be required only with respect to information which is different from that furnished when the pesticide was licensed or last relicensed. All fees collected shall be deposited in the general fund of the State."

**SECTION 4.** Section 149A-19, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

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†In section prior to amendment, here appeared the word "permit" instead of "license".

"(a) The board shall after having afforded interested and affected parties an opportunity to be heard and, in instances in which human health is affected, after consultation with the director of health, make and adopt regulations:

- (1) To declare as a pest any form of plant or animal life or virus which is injurious to plants, man, domestic animals, articles, or substances;
- (2) To determine the pesticides which are highly toxic to man; to designate pesticides as restricted or general use; and to establish a system of control over the distribution and use of certain pesticides and devices purchased by the consuming public;
- (3) To determine standards of coloring for pesticides, and to subject pesticides to the requirements of section 149A-16;
- (4) To establish procedures, conditions, and fees for the issuance of licenses for sale of restricted pesticides;
- (5) To establish fees for the licensing of pesticides within the limitations of section 149A-13(b);
- (6) To establish procedures for the licensing of pesticides;
- (7) To establish procedures for the registration of pesticides under provisions of section 24(c), FIFRA, as amended;
- (8) To establish procedures for the disposal of pesticides; and
- (9) To establish procedures to issue experimental use permits under provisions of section 5 of FIFRA, as amended."

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

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

(Approved April 29, 1981.)

#### ACT 34

S.B. NO. 587

A Bill for an Act Relating to the Board of Hearing Aid Dealers and Fitters.

*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, 1979:

- (1) Chapter 443 (Collection Agencies Board)
- (2) Chapter 467A (Rental Agencies)
  
- (b) The following chapters are hereby repealed effective December 31, 1980:
  - (1) Chapter 436 (Board of Examiners for Abstract Makers)
  - (2) Chapter 468J (Travel Agencies)
  - (3) Chapter 443 (Collection Agencies Board)

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

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- (c) The following chapters are hereby repealed effective December 31, 1981:
  - (1) Chapter 441 (Cemetery Board)
  - [2] Chapter 451A (Board of Hearing Aid Dealers and Fitters)
  - [3] (2) Chapter 457B (Board of Examiners of Nursing Home Administrators)
  - [4] (3) Chapter 458 (Board of Dispensing Opticians)
  - [5] (4) Chapter 459 (Board of Examiners in Optometry)
  - [6] (5) Chapter 465 (Board of Certification for Practicing Psychologists)
  - [7] (6) Chapter 468E (Board of Speech Pathology and Audiology)
  - [8] (7) Chapter 452 (Board of Massage)
- (d) The following chapters are hereby repealed effective December 31, 1982:
  - (1) Chapter 436D (Board of Acupuncture)
  - (2) Chapter 437B (Motor Vehicle Repair Industry Board)
  - (3) Chapter 442 (Board of Chiropractic Examiners)
  - (4) Chapter 448E (Board of Electricians and Plumbers)
  - (5) Chapter 464 (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
  - (6) Chapter 466 (Board of Public Accountancy)
  - (7) Chapter 467 (Real Estate Commission)
  - (8) Chapter 448H (Elevator Mechanics Licensing Board)
- (e) The following chapters are hereby repealed effective December 31, 1983:
  - (1) Chapter 444 (Contractors License Board)
  - (2) Chapter 448 (Board of Dental Examiners)
  - (3) Chapter 453 (Board of Medical Examiners)
  - (4) Chapter 457 (Board of Nursing)
  - (5) Chapter 460 (Board of Osteopathic Examiners)
  - (6) Chapter 460J (Pest Control Board)
  - (7) Chapter 461 (Board of Pharmacy)
- (f) The following chapters are hereby repealed effective December 31, 1984:
  - (1) Chapter 455 (Board of Examiners in Naturopathy)
  - (2) Chapter 463E (Podiatry)
  - (3) Chapter 438 (Barbering, Practice of)
  - [4][ ] Chapter 439 (Beauty Culture)
  - (5) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
- (g) The following chapters are hereby repealed effective December 31, 1985:
  - (1) Chapter 437 (Motor Vehicle Industry Licensing Board)[.]
  - (2) Chapter 440 (Boxing Commission)
- (h) The following chapters are hereby repealed effective December 31, 1986:
  - (1) Chapter 447 (Dental Hygienists)
  - [2][ ] Chapter 463 (Board of Private Detectives and Guards)
  - [3][ ] Chapter 471 (Board of Veterinary Examiners)[.]

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

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

(Approved April 29, 1981.)

## ACT 35

S.B. NO. 591

A Bill for an Act Relating to the Board of Examiners in Optometry.

*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, 1979:

- (1) Chapter 443 (Collection Agencies Board)
- (2) Chapter 467A (Rental Agencies)

(b) The following chapters are hereby repealed effective December 31, 1980:

- (1) Chapter 436 (Board of Examiners for Abstract Makers)
- (2) Chapter 468J (Travel Agencies)
- (3) Chapter 443 (Collection Agencies Board)

(c) The following chapters are hereby repealed effective December 31, 1981:

- (1) Chapter 441 (Cemetery Board)
- (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
- (3) Chapter 457B (Board of Examiners of Nursing Home Administrators)
- (4) Chapter 458 (Board of Dispensing Opticians)
- [5] Chapter 459 (Board of Examiners in Optometry)
- [6] [5] Chapter 465 (Board of Certification for Practicing Psychologists)
- [7] [6] Chapter 468E (Board of Speech Pathology and Audiology)
- [8] [7] Chapter 452 (Board of Massage)

(d) The following chapters are hereby repealed effective December 31, 1982:

- (1) Chapter 436D (Board of Acupuncture)
- (2) Chapter 437B (Motor Vehicle Repair Industry Board)
- (3) Chapter 442 (Board of Chiropractic Examiners)
- (4) Chapter 448E (Board of Electricians and Plumbers)
- (5) Chapter 464 (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
- (6) Chapter 466 (Board of Public Accountancy)
- (7) Chapter 467 (Real Estate Commission)
- (8) Chapter 448H (Elevator Mechanics Licensing Board)

(e) The following chapters are hereby repealed effective December 31, 1983:

- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448 (Board of Dental Examiners)
- (3) Chapter 453 (Board of Medical Examiners)
- (4) Chapter 457 (Board of Nursing)
- (5) Chapter 460 (Board of Osteopathic Examiners)
- (6) Chapter 460J (Pest Control Board)
- (7) Chapter 461 (Board of Pharmacy)

(f) The following chapters are hereby repealed effective December 31, 1984:

- (1) Chapter 455 (Board of Examiners in Naturopathy)
- (2) Chapter 463E (Podiatry)

## ACT 36

- (3) Chapter 438 (Barbering, Practice of)  
[[(4)]] Chapter 439 (Beauty Culture)
- (g) The following chapters are hereby repealed effective December 31, 1985:  
(1) Chapter 437 (Motor Vehicle Industry Licensing Board)[.]  
(2) Chapter 440 (Boxing Commission)
- (h) The following chapters are hereby repealed effective December 31, 1986:  
(1) Chapter 447 (Dental Hygienists)
- [[(2)]] Chapter 463 (Board of Private Detectives and Guards)  
[[(3)]] Chapter 471 (Board of Veterinary Examiners)[.]
- (i) The following chapter is hereby repealed effective December 31, 1987:  
(I) Chapter 459 (Board of Examiners in Optometry)."

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

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

(Approved April 29, 1981.)

## ACT 36

S.B. NO. 599

A Bill for an Act Relating to Optometrists.

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

SECTION 1. The purpose of this Act is to streamline the administration of the regulation of optometrists.

SECTION 2. Section 459-8, Hawaii Revised Statutes, is amended to read as follows:

**§459-8 Conduct of examinations.** All examinations shall be designed to ascertain the applicant's fitness to practice the profession of optometry. The written examination shall cover the same body of knowledge as, and be at least equal to, the examination administered by the National Board of Examiners in Optometry."

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

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

(Approved April 29, 1981.)

## ACT 37

S.B. NO. 656

A Bill for an Act Relating to Reports By Agencies Receiving Special Moneys.

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

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

SECTION 1. The purpose of this Act is to clarify the applicability of section 40-81, Hawaii Revised Statutes, to the office of Hawaiian affairs and to the Hawaii housing authority, so that the financial reporting of the state comptroller will represent in scope the total state government.

SECTION 2. Section 10-13, Hawaii Revised Statutes, is amended to read:

**“§10-13 Appropriations; accounts; reports.** Moneys appropriated by the legislature for the office shall be payable by the director of finance, upon vouchers approved by the board, or by any officer elected or appointed by the board and authorized by the board to approve such vouchers on behalf of the board. All moneys received by or on behalf of the board shall be deposited with the director of finance and kept separate from moneys 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; and except that with the concurrence of the director of finance, moneys received from the federal government for research, training, and other related purposes of a transitory nature, and moneys in trust or revolving funds administered by the office, shall be deposited in depositories other than the state treasury and shall be reported on to the state comptroller under section 40-81, and rules prescribed thereunder. Income derived from the sale of goods or services and income from lands and property as described in section 10-3, shall be credited to special or other funds; provided that upon the recommendation of the office, the comptroller shall establish such other separate accounts or special funds for other designated revenues as may be directed by the board or its authorized representative.”

SECTION 3. Section 356-26, Hawaii Revised Statutes, is amended to read:

**“§356-26 Duty to make reports.** The Hawaii housing authority shall at least once a year file with the governor a report of its activities for the preceding year, and shall make any recommendations with reference to any additional legislation or other action that may be necessary in order to carry out the purposes of this chapter. The authority shall report to the state comptroller on moneys deposited in depositories other than the state treasury under section 40-81, and rules prescribed thereunder.”

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

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

(Approved April 29, 1981.)

ACT 38

S.B. NO. 659

A Bill for an Act Relating to the Licensing of Itinerant Vendors of Medicines.

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

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## **ACT 39**

**SECTION 1.** Section 445-142, Hawaii Revised Statutes, is repealed.

**SECTION 2.** Statutory material to be repealed is bracketed.\*

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

(Approved April 29, 1981.)

## **ACT 39**

**S.B. NO. 1111**

**A Bill for an Act Relating to Chapter 46, Hawaii Revised Statutes.**

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

**SECTION 1.** Section 46-15.1, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The provisions of this section shall be construed liberally so as to most fully effectuate the purpose of this section in facilitating the development, construction, and provision of low- and moderate-income housing by the various counties. Any law to the contrary notwithstanding, in no case shall the powers and duties conferred on the counties by this section be deemed to be altered by an amendment to chapter 359G effected subsequent to 1974."

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

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

(Approved April 29, 1981.)

## **ACT 40**

**H.B. NO. 1232**

**A Bill for an Act Relating to Litter Control.**

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

**SECTION 1.** Section 339-7, Hawaii Revised Statutes, is amended to read as follows:

**“§339-7 Beverage container requirements.** (a) No person in this State shall manufacture or import for sale in this State or offer for sale at wholesale in this State after July 1, 1979, or sell for retail in this State after October 1, 1979, any beverage in metal containers so designed and constructed that a part of the container is permanently detached in opening the container. However, nothing in this subsection shall prohibit the sale or offer for sale of a container the only detachable part of which is a piece of pressure sensitive tape.

(b) Failure to comply with the provisions of this section shall constitute a violation and shall carry a fine of \$250. Each day of such failure shall constitute a separate violation.”

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

**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 15, 1981.)

**ACT 41**

**H.B. NO. 538**

A Bill for an Act Authorizing the Issuance of Special Purpose Revenue Bonds to Secure Long-term Mortgage Refinancing for the Pohai Nani Good Samaritan Kauhale Health Care Facility.

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

**SECTION 1.** The legislature finds that the health and welfare of the State's elderly deserve serious consideration, attention, and assistance from the state government. The Pohai Nani Good Samaritan Kauhale, a retirement and health care facility, located in Kaneohe, Oahu, is a private institution which has been providing residential and health care services to the elderly for the past seventeen years.

The legislature further finds that due to recent increases in long-term mortgage refinancing costs for the retirement facility, the Evangelical Lutheran Good Samaritan Society, a nonprofit corporation and owner of the facility, has been forced to raise current rents by twenty per cent. The current and potential rent increases will cause serious economic hardships on the elderly residents by either pricing health care services at extremely high rates or beyond their ability to pay for these services. The legislature finds it in the public interest that appropriate governmental measures be implemented to ameliorate this situation.

The legislature further finds that chapter 39A, part II, Hawaii Revised Statutes, permits the State to financially assist nonprofit corporations providing health care facilities to the general public by issuing special purpose revenue bonds. The legislature also finds that since the Evangelical Lutheran Good Samaritan Society is a national nonprofit corporation providing health care facilities for the elderly, it would be appropriate and in the public interest to assist this corporation. Furthermore, assistance in the form of special purpose revenue bonds would:

- (1) Result in lower long-term refinancing costs to the Society since the special purpose revenue bonds would bear a lower interest rate than that charged by private lenders; and
- (2) Eliminate the need to charge higher rents and health care fees for elderly residents of the retirement and health care facility.

The legislature further finds that issuing special purpose revenue bonds for the purpose of securing long-term mortgage refinancing for the retirement and health care facility will assist in making health care services available to the State's elderly at affordable prices and is therefore in the public interest.

The legislature further finds that no review of the financial records of the Evan-

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 42

gelical Lutheran Good Samaritan Society has been made. Therefore, the legislature directs the department of budget and finance to conduct all reviews and impose all safeguards provided in chapter 39A, part II, Hawaii Revised Statutes, to ensure that the purposes for which the special purpose bonds were authorized are met.

SECTION 2. The director of finance is authorized to issue special purpose revenue bonds in the sum of \$9,000,000, or so much thereof as may be necessary, for fiscal years 1981-1982, 1982-1983, and 1983-1984, to secure mortgage refinancing or insured financing for the Pohai Nani Good Samaritan Kauhale health care facility.

SECTION 3. Any unused portion of the authorization made by this Act as of the close of business on June 30, 1984, shall lapse.

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

(Approved May 21, 1981.)

## ACT 42

S.B. NO. 258

A Bill for an Act Relating to Relocation of Public Utilities.

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

SECTION 1. Section 264-33, Hawaii Revised Statutes, is amended to read as follows:

**"§264-33 Relocation of utility facilities.** (a) Whenever, as a result of the work of construction, reconstruction, or maintenance of any state highway or state or county federal-aid highway, it is necessary to provide for or require the removal, relocation, replacement, or reconstruction of any utility facility, and the expense of removal, relocation, replacement, or reconstruction exceeds \$10,000, one-half of this excess expense shall be a proper charge against the state or county funds available for the construction or maintenance of state or county highways; provided that all of the expense of removal, relocation, replacement, or reconstruction of publicly owned utility facilities shall be a charge against the state or county funds.

(b) The work of the removal, relocation, replacement, or reconstruction may be performed in the following manner, subject to the following conditions:

- (1) The work shall be performed in accordance with standards of construction currently used by the utility; and
- (2) Such work may be performed by contract as provided in sections 103-22 and † 103-25; or after first calling for bids under such sections, the director of transportation or other officer having power to award such contract, may contract with the public utility owning the utility facility to have the work performed by it, with the use of its own employees and equipment at not to exceed actual cost or in the amount of the lowest responsible bid (if such bids have been submitted), whichever is the lowest amount, with the adjustments hereinafter provided for.

- (c) The amount to be paid out of state or county funds shall be computed as

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†In section prior to amendment, here appeared the word "to" instead of "and".

follows:

- (1) The total cost shall first be determined.
- (2) From the total cost there shall be deducted the following items:
  - (A) Depreciation, except that this shall not be applicable to publicly owned utility facilities, and the salvage value of any materials or parts salvageable and retained by the utility;
  - (B) The amount of any betterment to the utility facility resulting from the removal, relocation, replacement, or reconstruction;
  - (C) In the case of a privately owned utility facility only, the first \$10,000 of the expense of such work;
  - (D) The balance of the cost, in the case of a privately owned utility facility only, shall be paid one-half by the owner thereof, and the remaining one-half shall be the amount payable out of state or county funds."

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 26, 1981.)

## ACT 43

S.B. NO. 330

A Bill for an Act Relating to Police Departments.

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

SECTION 1. Section 52-7, Hawaii Revised Statutes, is amended to read as follows:

**"§52-7 Replacement of police officers' uniforms.** The respective councils of the several counties shall provide for and make replacement of police officers' uniforms which have been destroyed or damaged while worn by police officers in the performance of their duty."

SECTION 2. Section 52-9, Hawaii Revised Statutes, is amended to read as follows:

**"§52-9 Exceptions.** No uniform shall be replaced under sections 52-7 and 52-8 where it is destroyed or damaged as the result of ordinary wear and tear, except as provided for in section 52-10, or the negligence of the police officer, or where it is wilfully destroyed or damaged by the police officer. However, destruction or damage caused by another person, or caused by an instrument, device, machine, person, object, etc. under the control or will of another shall not be considered as destruction or damage by ordinary wear and tear."

SECTION 3. Section 52-10, Hawaii Revised Statutes, is amended to read as follows:

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## **ACT 44**

**"§52-10 Replacement of reserve police officers' uniforms.** Wherever in sections 52-7 to 52-9 the terms "police officer" or "police officers" are used, the same may include reserve police officers.

The respective councils of the several counties may provide for and make replacement of reserve police officers' uniforms which have been rendered unserviceable through normal wear and tear while worn in the performance of their duty. Replacement of reserve police officers' uniforms may be pursuant to guidelines as prescribed by the chiefs of police of the respective counties."

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

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

(Approved May 26, 1981.)

## **ACT 44**

**S.B. NO. 332**

A Bill for an Act Relating to Highway Safety.

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

**SECTION 1.** Section 286-47, Hawaii Revised Statutes, is amended to read as follows:

**"§286-47 Certificate of registration; certificate of ownership; containers.** Upon the registration of a vehicle, the director of finance shall issue a certificate of registration to the owner and a certificate of ownership to the legal owner, or to a dealer who shall be a person licensed to sell new motor vehicles under chapter 437 which certificates shall meet the following requirements:

- (1) Both the certificate of registration and the certificate of ownership shall contain upon the face thereof, the date issued, the registration number assigned to the owner and to the vehicle, the name and address of the owner and legal owner in typewriting, also such description of the registered vehicle as may be determined by the director of finance. If any of the information subsequently proves to be a typographical error, the dealer, as defined in section 437-1, shall notify the director of finance of the error by a written certificate stating the reasons for and nature of the error and the correction which should be made in the certificate of registration and the certificate of ownership. Upon receipt of the dealer's certificate by the director of finance, the certificate of registration and the certificate of ownership shall be corrected accordingly so long as the correction does not constitute a change of the vehicle originally registered. A fee shall be paid to the director of finance for each instance of correction of the registration records. The fee charged for each instance of correction of the registration records shall be established by the county's legislative body.
- (2) In addition to the requirements provided for in paragraph (1) above, the

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

face of the certificate of ownership shall contain endorsement lines for the transfer of title or interest of the registered owner and legal owner, and the odometer reading of the vehicle on the date of transfer. The reverse side of the certificate of ownership shall contain the application for registration by the transferee.

- (3) (A) Every owner shall keep the certificate of registration within the vehicle for which it is registered and shall present the same at the request of a police officer, or in the event the vehicle is a motorcycle, shall carry such certificate in a convenient receptacle attached to the vehicle and which shall be presented at the request of a police officer.
- (B) This shall not apply to state or county vehicles readily identified by the license plates and markings on sides of said vehicles.
- (C) This requirement to carry the certificate of registration with the vehicle shall not apply when such certificate is removed from the vehicle for the purpose of application for renewal, or transfer of registration or to record a change in the registration."

SECTION 2. Section 28651†, Hawaii Revised Statutes, is amended to read as follows:

**"§286-51 Registration, expense.** Every certificate of registration issued under this part shall expire at midnight on December 31 of each year and shall be renewed annually before April 1 of each year upon application by the registered owner by presentation of the last issued certificate of registration or the last issued application for renewal, such renewal to take effect as of January 1 of each year; provided that, the certificate of registration for each motor vehicle in the counties of the State may be renewed on a staggered basis, if a county elects to do so. The director of finance of each county may promulgate rules and regulations to carry out the purposes stated in this section and shall expend the necessary funds from his operating funds as may be necessary for these purposes; provided further, that the director of finance, if he has ascertained as of the date of the application that the registered owner has not deposited or paid bail with respect to any summons or citation issued to the registered owner for stopping, standing, or parking in violation of traffic ordinances within the county, may require, as a condition precedent to the renewal, that the registered owner deposit or pay bail with respect to all such summons or citations. The certificates of registration issued hereunder shall show, in addition to all information required under section 28647††, the serial number of the tag or emblem and shall be valid during the registration year only for which they are issued. The certificates of ownership need not be renewed annually but shall remain valid as to any interest shown therein until canceled by the director of finance as provided by law or replaced by new certificates of ownership as hereinafter provided.

This part shall be administered by the director of finance in conjunction with the requirements of sections 249-1 to 249-13 and shall entail no additional expense or charge to the person registering the ownership of a motor vehicle other than as pro-

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†Probably should read "286-51".

††Probably should read "286-47".

## ACT 45

vided by this section or by other laws; provided that for each new certificate of charge to the person registering the ownership of a motor vehicle other than as provided by this section or by other laws provided, that for each new certificate of ownership issued by the director of finance under section 286-52, the director of finance may charge a fee which shall be deposited in the general fund. The fee(s) charged to issue a new certificate of ownership shall be established by the county's legislative body."

SECTION 3. Section 286-55, Hawaii Revised Statutes, is amended to read as follows:

**"§286-55 Certificates lost or mutilated.** If any certificate of registration or certificate of ownership is lost, mutilated, or becomes illegible, the person to whom the same has been issued shall immediately make application for and may obtain a duplicate thereof upon furnishing satisfactory information to the director of finance and upon payment of a fee, which fee shall be established by the county's legislative body.

When a certificate of ownership is lost, damaged, mutilated or stolen, the director of finance shall provide to a qualified applicant an application form for a duplicate certificate of ownership. The names and addresses of the transferor and transferee shall be written in the application form and the same, together with the last issued certificate of registration, the fee for the duplicate certificate of ownership, plus the transfer fee, shall be filed with the director of finance."

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

SECTION 5. This Act shall take effect on January 1, 1982.

(Approved May 26, 1981.)

## ACT 45

S.B. NO. 466

A Bill for an Act Relating to Payments into the State Treasury.

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

SECTION 1. Part II of chapter 40, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"§40- Assessment and collection of service charges for dishonored items.** Unless otherwise provided by law or rules having the force and effect of law, every public accountant receiving revenue or other moneys on account of the State shall assess and collect a service charge in the amount of \$7.50 for any check, draft, certificate of deposit, or other negotiable instrument the public accountant receives that is dishonored for any reason. A public accountant shall require payment of the service charge in cash or by certified cashier's check or by bank or postal money order. The service charge shall be deposited with the director of finance as a realization of the

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

general fund."

**SECTION 2.** New statutory material is underscored.\*

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

(Approved May 26, 1981.)

**ACT 46**

S.B. NO. 523

A Bill for an Act Relating to the Hawaii Insurance Law.

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

**SECTION 1.** Section 431-647, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) No insurer doing business in this State shall engage in unfair claim settlement practices. Any of the following acts by an insurer, if committed without just cause and performed with such frequency as to indicate a general business practice, shall constitute unfair claim settlement practices:

- (1) Misrepresenting to claimants pertinent facts or policy provisions relating to coverages at issue;
- (2) Failure to respond with reasonable promptness to communications, whether received from the insurer's policyholder or any other person, or insurer of such other person, who is involved in an accident in which the insurer's policyholder is also involved, with respect to claims arising under its policies;
- (3) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under its policies;
- (4) Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims submitted in which liability has become reasonably clear; or
- (5) Compelling policyholders to institute suits to recover amounts due under its policies by offering substantially less than the amounts ultimately recovered in suits brought by them."

**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 26, 1981.)

**ACT 47**

S.B. NO. 530

A Bill for an Act Relating to Beauty Culture.

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

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 47

SECTION 1. Section 439-1, Hawaii Revised Statutes, is amended to read as follows:

**“§439-1 Definitions.** As used in this chapter:

- (1) “Board” means the board of cosmetology of the State;
- (2) “Hairdresser” means any person who for compensation engages in any one or any combination of the following practices: arranging, dressing, curling, waving, cleansing, cutting, singeing, bleaching, coloring, or similar work upon the hair of another person;
- (3) “Cosmetician” means any person who, with hands or mechanical or electrical apparatus or appliances, or by use of cosmetic preparations, anti-septics, tonics, lotions, or creams, engages for compensation in any one or any combination of the following practices: massaging, cleansing, stimulating, manipulating, exercising, beautifying, or doing similar work upon, the scalp, the face, neck, arms, bust, or upper part of the body, or manicuring the nails, or removing of superfluous hair about the body of any person by means other than electrolysis;
- (4) “Classified occupations” mean the occupations of hairdresser and cosmetician;
- (5) “Classified practice” means any of the practices referred to in the definitions of “hairdresser” and “cosmetician”;
- (6) “Operator” means a hairdresser or cosmetician;
- (7) “Apprentice” means a person who is engaged in a beauty shop in learning to be an operator and while so doing assists in any of the practices of a hairdresser or cosmetician;
- (8) “Student” means a person who is engaged in a school in learning to be an operator and while so doing does or assists in doing any act involved in any of the practices of a hairdresser or cosmetician;
- (9) “Instructor” means a person who teaches any of the classified practices, provided, that the term shall not be taken to include an operator who teaches apprentices in a beauty shop;
- (10) “Beauty shop” means any premises upon or within which is practiced either of the classified occupations;
- (11) “School,” unless the context clearly indicates otherwise, means a school engaged in teaching any of the classified practices;
- (12) “Junior operator” has the meaning set forth in section 439-12(1); and
- (13) “Electrologist” means a person who engages in the practice of removing superfluous hair by penetration of the skin through the use of electricity.”

SECTION 2. Section 439-12, Hawaii Revised Statutes, is amended to read as follows:

**“§439-12 Requisites for admission to examination and registration.** The secretary of the board of cosmetology shall determine the sufficiency of the preliminary qualifications of applicants for admission to examinations and registration. The following preliminary qualifications shall be sufficient:

- (1) An operator may be registered in any of the classified practices or occupations under this chapter upon the payment of an examination fee of \$20 for each of the practices or occupations or any one or any combination of

the practices or occupations, provided he is of good moral character and has an education equivalent to the completion of four years of high school and has either (A) served the required time as an apprentice under the supervision of a registered operator or instructor, as determined by the board for any one or combination of the practices but not less than one year including two thousand hours for each of the two classified occupations; or (B) has acquired the equivalent training in a registered school, and has passed the prescribed examination or examinations to the satisfaction of the board; and provided further, that an applicant to be registered solely in the practice of removing superfluous hair by the use of electricity and commonly known and defined as the practice of electrolysis, shall have trained under the supervision of a registered electrologist for at least six hundred hours including such other studies as the board may prescribe; provided further, that the removal of superfluous hair by use of an electrical instrument or device which neither touches nor penetrates the skin shall not constitute the practice of electrolysis for purposes of this section; and provided further, that an applicant may be registered solely in the classified practice of a manicurist and such an applicant so registered may engage in such classified practice in a barber shop, a beauty shop, or in his own shop upon serving seven hundred hours of time as an apprentice under the supervision of a registered operator or instructor or three hundred fifty hours of training in a registered school and upon satisfying all the other requirements of this section; and provided further, that an applicant may be registered solely as a "Hair Cosmetician" in the classified occupation of a cosmetician upon serving one thousand two hundred hours of time as an apprentice under the supervision of a registered operator or instructor or six hundred hours of training in a registered school and upon satisfying all the other requirements of this section. Any applicant who fails an initial examination after paying the initial examination fee of \$20, shall thereafter pay an examination fee of \$10 for any subsequent examination.

Any person who has taken but has not successfully passed the examination or examinations prescribed by the board for any one or any combination of the practices or occupations but who has satisfied all the other requirements of this section may be registered as a "Junior Operator" and may work in a beauty shop under the supervision of a licensed operator in the practices or occupations in which such person has been examined so long as such person continues to take the prescribed examination or examinations in good faith. Failure or refusal on the part of a "Junior Operator" to take any prescribed examination or examinations shall be sufficient reason for the revocation of such registration by the board.

- (2) Instructors may be registered in any of the classified practices or occupations upon the payment of an examination fee of \$20, provided they are of good moral character and have completed a course satisfactory to the board in the theory and practice of education and have served actively for a period at least three years as a registered operator in the State or in

## ACT 48

another jurisdiction having standards for registration in the particular practice or occupation substantially equivalent to those of the State and have passed an examination satisfactory to the board; provided, that the board may at its discretion and without regard to the requirements of this section, issue and revoke a temporary certificate to any person holding a valid existing instructor's license in another territory, county, or state having standards substantially equivalent to those in force in the State at the time of such registration, for the limited purpose of either (A) commercially demonstrating in the State, any hair or cosmetic preparations or products identifiable by a trade name or trademark; or (B) instructing in hairstyling in a registered school or under the sponsorship of any organization approved by the board until the next following instructor's examination given by the board. Instructors duly registered under chapter 453, need not be holders of instructors certificates."

SECTION 3. Section 439-17, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"**§439-17 Beauty shops.** (a) Registration. A certificate of registration of a beauty shop may be secured by filing an application therefor and paying a fee of \$20 and showing to the satisfaction of the board of cosmetology that the shop meets the standards of sanitation required by the rules and regulations of the department of health, that a managing operator who has practiced as a registered operator in the State for at least one year is in charge of the shop, and that it is adequately equipped for the practices in which it engages. The board may waive the requirement that the managing operator have practiced in the State, for at least one year, upon a showing that the person has had other experience as a managing operator equivalent to one year's practice in this State and upon further showing that the aforesaid requirement creates undue hardship on the shop."

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

SECTION 5. This Act shall take effect 60 days after its approval.

(Approved May 26, 1981.)

ACT 48

S.B. NO. 532

A Bill for an Act Relating to Trust Companies.

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

SECTION 1. Chapter 406, Hawaii Revised Statutes, is amended:

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

"**§406 Application to do a trust business; fee; contents.** Any corporation or joint-stock company organized under the laws of the State may file an application with the director of regulatory agencies for authority to do business as a trust com-

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

pany. The applicant shall pay to the director of regulatory agencies at the time of filing the application an investigation fee of \$1,000, which fee shall in no case be refunded. The application shall be in duplicate and shall specify:

- (1) The location where the company proposes to conduct its trust business. The premises shall be occupied and used solely by the trust company.
- (2) That the amount of the capital stock of the trust company shall be fully paid in cash to the trust company before commencement of the trust business.
- (3) The names and residence addresses of all subscribers to the capital stock of the trust company, including the number of shares, the amount of the capital stock subscribed and percentage of ownership.
- (4) The name of the managing officer of the trust company. A separate sheet shall be attached showing the integrity, experience, and qualification of the managing officer to conduct a trust business.
- (5) The names and residence addresses of the proposed officers and directors of the trust company.
- (6) Any other information which the director of regulatory agencies may require.

The director of regulatory agencies shall grant to any corporation or joint-stock company, complying with the requirements of this section and sections 406-2 and 406-3, a certificate that it is qualified to act as a trust company."

2. By amending section 406-2 to read:

**"§406-2 Conditions precedent to doing business.** No corporation or joint-stock company shall do business as a trust company, except on the following conditions:

- (1) Its corporate name shall contain the word "trust."
- (2) It shall be organized for the purpose of doing business as a trust company, and that object shall be expressed in its charter or articles of association.
- (3) Its capital stock shall not be less than \$1,000,000 fully paid in cash; provided that the foregoing requirement as to paid-up capital stock shall not apply to any corporation or joint-stock company qualified to do business as a trust company before July 31, 1980, and having on that date a paid-up capital stock of less than the minimum requirement, or having an application for authority to do a trust business pending with the department before July 31, 1980. However, such qualified trust company with less than \$1,000,000 paid-up stock shall not open an additional office or place of business after July 31, 1980, unless or until it has attained \$1,000,000 in paid-up stock. No corporation or joint-stock company at any time qualified to act as a trust company shall reduce its paid-up capital stock to less than the minimum requirement, and no corporation or joint-stock company at any time qualified to act as a trust company and having a paid-up capital stock equal to or less than the minimum requirement shall reduce its paid-up capital stock in any amount.
- (4) Its paid-in capital shall be represented by cash."

3. By amending Section 406-3 to read:

**"§406-3 Conditions precedent to qualification.** No corporation or joint-stock company shall become qualified to do business as a trust company, and the

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certificate provided for in section 406- shall not be issued to any corporation or joint-stock company, until the director of regulatory agencies is satisfied with or without a hearing on the application: (1) that the proposed trust company is to be qualified for legitimate objects as contemplated by this chapter; (2) that the character, financial responsibility, and general fitness of the officers and the directors of the proposed trust company are such as to command the confidence of the community in which the proposed trust company is to be located and to warrant the belief that the business of the proposed trust company will be honestly and efficiently conducted; and (3) that data and facts submitted support reasonable assurances of the profitability of the operation of the proposed trust company. The director may prescribe rules and regulations for the implementation of this chapter, including rules and regulations governing proceedings in connection with any hearing or investigation. Any decision of the director adverse to the applicant shall be reviewable upon appeal to the circuit court of the first judicial circuit as provided in chapter 91. The court shall hear the appeal de novo without a jury."

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 26, 1981.)

## ACT 49

S.B. NO. 562

A Bill for an Act Relating to Government Motor Vehicles.

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

SECTION 1. Section 105-2, Hawaii Revised Statutes, is amended to read:

**§105-2 Exceptions.** Section 105-1 shall not apply to:

- (1) The governor;
- (2) The mayor of any county;
- (3) Any member of a police department or a fire department or of the staff of a hospital, or any officer or employee of the board of water supply of the city and county of Honolulu, when using a motor vehicle for a personal purpose incidental to his service or work (but not for pleasure);
- (4) Any officer or employee of the State who, upon written recommendation of the comptroller, is given written permission by the governor to use, operate, or drive for personal use (but not for pleasure) any motor vehicle owned or controlled by the State;
- (5) Any officer or employee of any county who, upon written recommendation of the budget director, is given written permission by the mayor, to use, operate or drive for personal use (but not for pleasure) any motor vehicle owned or controlled by the county;
- (6) Any officer or employee of the State, or of any county, who, in case of

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

- emergency, because of his illness, or his incapacity caused by accident while at work, or because of the illness of a member of his immediate family while he is at work, is conveyed in a motor vehicle to his place of abode, or to a hospital or other place, but every such use of such a motor vehicle shall be certified to by the officer or by the head of the department, commission, board, bureau, agency, or instrumentality controlling or possessing the motor vehicle immediately thereafter, and the certificate shall be forthwith filed with the comptroller, in the case of the State, or with the budget director, in the case of a county; and
- (7) The assigned driver of a Van Go Hawaii vehicle or any other state ride-sharing program vehicle."

SECTION 2. Section 105-6, Hawaii Revised Statutes, is amended to read:

**"§105-6 Inscription on state motor vehicles.** Unless excepted, every motor vehicle owned or controlled by the State shall bear on both sides thereof a facsimile of the state seal and beneath the seal the words "For Official Use Only" and the name of the department, commission, board, bureau, office, agency or instrumentality thereof controlling or possessing such motor vehicle. This section shall not apply to such motor vehicles as are furnished the governor, lieutenant governor, chief justice of the supreme court, and the president of the University of Hawaii or to such motor vehicles as are used in any ridesharing program of the State, for undercover investigative work, law enforcement and other functions as approved by the comptroller."

SECTION 3. Material to be repealed is bracketed. New material is underscored.\*

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

(Approved May 26, 1981.)

ACT 50

S.B. NO. 572

A Bill for an Act Relating to State Vehicle Registration Fee and Weight Tax.

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

SECTION 1. This Act is hereby declared an urgency measure deemed necessary in the public interest.

The following is a statement constituting such urgency:

Pursuant to section 286-51, Hawaii Revised Statutes, the counties, other than Maui County, will have implemented the collection of their vehicle registration fees on a staggered basis on January 1, 1981. The state vehicle weight tax and registration fee are collected by the counties together with their vehicle registration taxes and fees. It is beneficial for the public to register their vehicles on a staggered basis throughout the year to improve service by reducing peak load during the present renewal period of January 1 to March 31 of each year.

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

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Sections 249-31 and 249-33, Hawaii Revised Statutes, however, do not provide for a staggered method of collecting the state vehicle weight tax and registration fee.

Since the State does not have a staggered system, a dual and contrasting system will substantially increase the cost of collections for both the State and the public.

Therefore, it is essential that the State adopt a staggered system similar to that of the counties for collecting its fees and taxes.

**SECTION 2.** Section 249-31, Hawaii Revised Statutes, is amended to read:

**"§249-31 State registration fee.** All vehicles and motor vehicles in the State as defined in section 249-1, including antique motor vehicles, except as otherwise provided in sections 249-3 through 249-6 shall be subject to a \$1 vehicle registration fee. The fee shall become due and payable on January 1, and shall be paid before April 1 in each year together with all other taxes and fees levied by this chapter; provided that should any county elect to renew motor vehicle registrations on a staggered basis as authorized by section 286-51, the state registration shall likewise be staggered so that the state registration fee is collected together with the county fee. The state registration fee shall be deemed delinquent if not paid with the county registration fee. The respective counties shall collect this fee together with the vehicle registration tax collected for the county and shall transfer the moneys collected under this section to the State to be paid into the state highway fund."

**SECTION 3.** Section 249-33, Hawaii Revised Statutes, is amended to read:

**"§249-33 State vehicle weight tax, exemptions.** All vehicles and motor vehicles in the State as defined in section 249-1, including antique motor vehicles, except as otherwise provided in sections 249-3 through 249-6, in addition to all other fees and taxes levied by this chapter, shall be subject to an annual state vehicle weight tax. The tax shall be levied by the county director of finance at the rate of 0.45 cents a pound according to the net weight of each vehicle as the "net weight" is defined in section 249-1 up to 6,000 pounds net weight; vehicles over 6,000 pounds and up to 9,000 pounds net weight shall be taxed \$27; vehicles over 9,000 pounds and up to 14,000 pounds net weight shall be taxed \$31.50; vehicles over 14,000 pounds net weight shall be taxed at a flat rate of \$36; provided that in no case shall the tax assessed and collected be less than \$2 nor more than a maximum of \$36.

The tax shall become due and payable on January 1 and shall be paid before April 1 in each year together with all other taxes and fees levied by this chapter; provided that should any county elect to renew motor vehicle registrations on a staggered basis as authorized by section 286-51, the state vehicle weight tax shall likewise be staggered so that the state vehicle weight tax is collected together with the county fee. The state vehicle weight tax shall be deemed delinquent if not paid with the county registration fee. The tax shall be paid by the owner of each vehicle to the director of finance of the county in which the vehicle is registered and shall be collected by the director of finance of such county together with all other fees and taxes levied by this chapter from the owner of each vehicle and motor vehicle registered in the county.

By the fifteenth day of the month following the month in which taxes under this section are collected, the director of finance of each county shall transmit the taxes collected to the state director of finance for deposit into the state highway fund.

The exemptions provided by sections 249-3 to 249-6 shall apply to this section. The provisions for refunds, and taxes for fraction of years for vehicles removed from or brought into the State and for junked vehicles, contained in sections 249-3 and 249-5 shall apply to the tax levied by this section.

If it is shown to the satisfaction of the department of transportation of the State, based upon proper records and from such other evidence as the department of transportation may require, that any vehicle with a net vehicle weight of 6,000 pounds or over is used for agricultural purposes the owner thereof may obtain a refund of all taxes thereon imposed by this section. The department of transportation shall prescribe rules and regulations to administer such refunds.

The counties shall be reimbursed the incremental costs incurred in the collection and administration of taxes and fees imposed under section 249-31 and this section; the amount of reimbursement shall be determined by the director of transportation."

**SECTION 4.** Section 249-34, Hawaii Revised Statutes, is amended to read:

**"§249-34 Delinquent penalties; seizure and sale for tax and fee.** Any tax or fee imposed under sections 249-31 and 249-33 for any year and not paid when due shall be subject to the penalties provided in section 249-10."

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

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

(Approved May 26, 1981.)

## ACT 51

S.B. NO. 592

A Bill for an Act Relating to the Board of Certification of Practicing Psychologists.

*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, 1979:

- (1) Chapter 443 (Collection Agencies Board)
- (2) Chapter 467A (Rental Agencies)
- (b) The following chapters are hereby repealed effective December 31, 1980:
  - (1) Chapter 436 (Board of Examiners for Abstract Makers)
  - (2) Chapter 468J (Travel Agencies)
  - (3) Chapter 443 (Collection Agencies Board)
- (c) The following chapters are hereby repealed effective December 31, 1981:
  - (1) Chapter 441 (Cemetery Board)
  - (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
  - (3) Chapter 457B (Board of Examiners of Nursing Home Administrators)

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

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- (4) Chapter 458 (Board of Dispensing Opticians)
- (5) Chapter 459 (Board of Examiners in Optometry)
- [6] Chapter 465 (Board of Certification for Practicing Psychologists)
- [7] (6) Chapter 468E (Board of Speech Pathology and Audiology)
- [8] (7) Chapter 452 (Board of Massage)
- (d) The following chapters are hereby repealed effective December 31, 1982:
  - (1) Chapter 436D (Board of Acupuncture)
  - (2) Chapter 437B (Motor Vehicle Repair Industry Board)
  - (3) Chapter 442 (Board of Chiropractic Examiners)
  - (4) Chapter 448E (Board of Electricians and Plumbers)
  - (5) Chapter 464 (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
  - (6) Chapter 466 (Board of Public Accountancy)
  - (7) Chapter 467 (Real Estate Commission)
  - (8) Chapter 448H (Elevator Mechanics Licensing Board)
- (e) The following chapters are hereby repealed effective December 31, 1983:
  - (1) Chapter 444 (Contractors License Board)
  - (2) Chapter 448 (Board of Dental Examiners)
  - (3) Chapter 453 (Board of Medical Examiners)
  - (4) Chapter 457 (Board of Nursing)
  - (5) Chapter 460 (Board of Osteopathic Examiners)
  - (6) Chapter 460J (Pest Control Board)
  - (7) Chapter 461 (Board of Pharmacy)
- (f) The following chapters are hereby repealed effective December 31, 1984:
  - (1) Chapter 455 (Board of Examiners in Naturopathy)
  - (2) Chapter 463E (Podiatry)
  - (3) Chapter 438 (Barbering, Practice of)
- [4] Chapter 439 (Beauty Culture)
- (g) The following chapters are hereby repealed effective December 31, 1985:
  - (1) Chapter 437 (Motor Vehicle Industry Licensing Board) [.]
  - (2) Chapter 440 (Boxing Commission)
- (h) The following chapters are hereby repealed effective December 31, 1986:
  - (1) Chapter 447 (Dental Hygienists)
- [2] Chapter 463 (Board of Private Detectives and Guards)
- [3] Chapter 471 (Board of Veterinary Examiners) [.]
  - (i) The following chapter is hereby repealed effective December 31, 1987:
    - (1) Chapter 465 (Board of Certification for Practicing Psychologists)."

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 26, 1981.)

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

SECTION 1. Section 305H-2, Hawaii Revised Statutes, is amended to read as follows:

**“§305H-2 Commission’s powers and authority.** The commission may cooperate with the federal government in order to qualify the State to receive funds made available under the Higher Education Act of 1965, as amended by P.L. 92-318, and as it may be amended from time to time and in addition may serve as the state agency for the receipt of federal funds where the federal legislation dealing with higher education or post-secondary education requires as a condition of state receipt of such funds, the designation of a state agency which is broadly representative of the general public and of post-secondary education in the State and where agencies other than the commission created by this chapter may not qualify. The commission shall establish appropriate rules and regulations not inconsistent with this chapter as may be required to administer the receiving and disbursement of funds. The rules shall be adopted in accordance with chapter 91.

No such funds appropriated by the legislature may be used to aid a person attending an institution not owned or exclusively controlled by the State or a department of the State or to pay for any staff-work distributing federal or private funds to students attending such schools. The maximum amount of any grant awarded under the Hawaii state incentive grant program shall be equal to the maximum allowed by federal law.”

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

SECTION 3. This Act shall take effect on July 1, 1981.

(Approved May 26, 1981.)

ACT 53

S.B. NO. 1359

A Bill for an Act Relating to Insurance.

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

SECTION 1. Section 431-563, Hawaii Revised Statutes, is amended to read as follows:

**“§431-563 Variable [annuity] contracts.** (a) A domestic life insurance company may, by or pursuant to resolution of its board of directors, establish one or more separate accounts, and may allocate thereto amounts, including without limitation proceeds applied under optional modes of settlement or under dividend options, to provide for life insurance or annuities (and benefits incidental thereto), payable in fixed or variable amounts or both, subject to the following:

- (1) The income, gains and losses, realized or unrealized, from assets allocated to a separate account shall be credited to or charged against the account, without regard to other income, gains or losses of the company.

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

- (2) Except as hereinafter provided, amounts allocated to any separate account and accumulations thereon may be invested and reinvested without regard to any requirements or limitations prescribed by the laws of this State governing the investments of life insurance companies; provided, that to the extent that the company's reserve liability with regard to (A) benefits guaranteed as to amount and duration, and (B) funds guaranteed as to principal amount or stated rate of interest is maintained in any separate accounts, a portion of the assets of such separate account at least equal to such reserve liability shall be, except as the commissioner may otherwise approve, invested, in accordance with the laws of this State governing the investments of life insurance companies. The investments in such separate account or accounts shall not be taken into account in applying the investment limitations otherwise applicable to the investments of the company.
- (3) Unless otherwise approved by the commissioner, assets allocated to a separate account shall be valued at their market value on the date of valuation, or if there is no readily available market, then as provided under the terms of the contract or the rules or other written agreement applicable to such separate account; provided, that unless otherwise approved by the commissioner, a portion of the assets of such separate account equal to the company's reserve liability with regard to the guaranteed benefits and funds referred to in clauses (A) and (B) of subsection (a) (2) of this section, if any, shall be valued in accordance with the rules otherwise applicable to the company's assets.
- (4) Amounts allocated to a separate account in the exercise of the power granted by this section shall be owned by the company, and the company shall not be, nor hold itself out to be, a trustee with respect to such amounts. That portion the assets of any such separate account equal to the reserves and other contract liabilities with respect to such account shall not be chargeable with liabilities arising out of any other business the company may conduct.
- (5) No sale, exchange or other transfer of assets may be made by a company between any of its separate accounts or between any other investment account and one or more of its separate accounts unless, in case of a transfer into a separate account, such transfer is made solely to establish the account or to support the operation of the contracts with respect to the separate account to which the transfer is made, and unless such transfer, whether into or from a separate account, is made (A) by transfer of cash, or (B) by a transfer of securities having a readily determinable market value, provided that such transfer of securities is approved by the commissioner. The commissioner may approve other transfers among such accounts, if in his opinion, such transfers would not be inequitable.
- (6) To the extent such company deems it necessary to [ ] comply [ ] with any applicable federal or state laws, such company, with respect to any separate account, including without limitation any separate account which is a management investment company or a unit investment trust, may provide for persons having an interest therein appropriate voting and

other rights and special procedures for the conduct, of the business of such account, including without limitation special rights and procedures relating to investment policy, investment advisory services, selection of independent public accountants, and the selection of a committee, the members of which need not be otherwise affiliated with such company, to manage the business of such account.

- (b) (1) Any variable contract providing benefits payable in variable amounts delivered or issued for delivery in this State shall contain a statement of the essential features of the procedures to be followed by the insurance company in determining the dollar amount of such variable benefits. Any such contract, including a group contract and any certificate in evidence of variable benefits issued thereunder, shall state that such dollar amount will vary to reflect investment experience and shall contain on its first page a statement to the effect that the benefits thereunder are on a variable basis.  
(2) Variable [annuity] contracts delivered or issued for delivery in this State may include as an incidental benefit provision for payment on death during the deferred period of an amount not in excess of the greater of the sum of the premiums or stipulated payments paid under the contract or the value of the contract at time of death. Any such provision shall not be deemed to be life insurance and therefore not subject to the provisions of this chapter governing life insurance carriers. A provision for any other benefit on death during the deferred period shall be subject to such insurance provisions.

(c) No company shall deliver or issue for delivery within this State contracts under this section unless it is licensed or organized to do a life insurance or annuity business in this State, and the commissioner is satisfied that its condition or method of operation in connection with the issuance of such contracts will not render its operation hazardous to the public or its policyholders in this State. In this connection, the commissioner shall consider among other things:

- (1) The history and financial condition of the company;
- (2) The character, responsibility and fitness of the officers and directors of the company; and
- (3) The law and regulation under which the company is authorized in the state of domicile to issue variable contracts.

A company which issues variable contracts and which is a subsidiary of, or affiliated through common management or ownership with, another life insurance company authorized to do business in this State shall be deemed to have met the provisions of this subsection of either it or the parent or affiliated company meets the requirements hereof.

(d) Notwithstanding any other provision of law, the commissioner shall have sole and exclusive authority to regulate the issuance and sale of variable contracts and to provide for licensing of persons selling such contracts, and to issue such reasonable rules and regulations as may be appropriate to carry out the purpose and provisions of this section.

(e) The provisions of sections [431-543] 431-531 through 431-552 shall be inapplicable to variable contracts, nor shall any provision in chapter 431 requiring

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contracts to be participating be deemed applicable to variable contracts. The commissioner, by regulation, may require that any individual variable [annuity] contract, delivered or issued for delivery in this State, contain provisions as to grace period, reinstatement or nonforfeiture which are appropriate to a variable [annuity.] contract. Except as otherwise provided in this section, all pertinent provisions of this chapter shall apply to separate accounts and contracts relating thereto. The reserve liability for variable [annuities] contracts shall be established in accordance with actuarial procedures that recognized the variable nature of the benefits provided and any mortality guarantees."

**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 26, 1981.)

**ACT 54**

**S.B. NO. 1505**

A Bill for an Act Relating to Charitable Organizations.

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

**SECTION 1.** The legislature finds that Act 167, Session Laws of Hawaii 1969, relating to the solicitation of funds from the public, was enacted to protect the public from the unscrupulous obtaining of money or property by persons under the pretense that such money or property would be used for charitable purposes; that the Act presently requires all charitable organizations raising money or contributions in excess of \$4,000 annually, to register as a charitable organization with the State; and that in registering, each charitable organization is required to file a financial statement that has been audited by an independent public accountant.

The legislature further finds that small charitable organizations such as the Parent-Teachers Association and the Little League, which raise funds not much in excess of \$4,000 annually, must presently hire an independent public accountant to audit their financial statements; that this imposes a devastating financial burden which frequently amounts to several thousand dollars; and has therefore left only a small amount of funds for these charitable organizations to pursue their objectives.

The legislature recognizes that the intent in having all financial statements professionally audited is to protect the public interest; that imposing a substantial financial burden on small charitable organizations is clearly not an intent of the requirement; that only those charitable organizations which annually raise large sums of money are able to comply with this requirement; that those organizations which raise in excess of \$10,000 annually should have their financial statements professionally audited; that those charitable organizations which raise more than \$4,000 but not greater than \$10,000 should file unaudited financial statements; and to protect the public interest, these unaudited financial statements may be audited by the State.

The purposes of this Act are to require all charitable organizations raising in excess of \$10,000 annually to file a financial statement that has been audited by an independent public accountant, to require those charitable organizations raising more than \$4,000, but not more than \$10,000, to file unaudited financial statements, and to allow the State to audit these unaudited financial statements if circumstances

indicate that an audit is called for to protect the public.

SECTION 2. Section 467B-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Every charitable organization, except as otherwise provided in this chapter, which intends to solicit contributions within the State, or have funds solicited on its behalf, shall, prior to any solicitation, file a registration statement with the director upon forms prescribed by the director, which shall be valid for one full year and which shall be refiled in the next and each following year in which the charitable organization is engaged in solicitation activities. It shall be the duty of the president, chairman, or principal officer of the charitable organization to file the statement required under this chapter. The statement shall be sworn to and shall contain the following information:

- (1) The name of the charitable organization and the purpose for which it was organized.
- (2) The principal address of the charitable organization and the addresses of any office in the State. If the charitable organization does not maintain an office, the name and address of the person having custody of its financial records.
- (3) The name and address of any chapter, branch, or affiliate in the State.
- (4) The date and place when the charitable organization was legally established, the form of its organization, and a reference to any determination of its tax-exempt status under the Internal Revenue Code.
- (5) The name and address of all officers, directors, trustees, and the principal salaried executive staff officer.
- (6) A copy of a financial statement (balance sheet and income and expense statement) audited by an independent certified public accountant covering, in a consolidated report, complete information as to all the preceding fiscal year's fund-raising activities of the charitable organization, showing the kind and amounts of funds raised, costs and expenses incidental thereto, and allocation or disbursement of funds raised whenever the organization raised or received contributions exceeding \$10,000 during the preceding fiscal year; or a copy of an unaudited financial statement (either a compilation or review) covering all the preceding fiscal year's fund-raising activities of the charitable organization, showing the kind and amount of funds raised, costs and expenses incidental thereto, and allocation or disbursement of funds raised whenever the charitable organization raised or received contributions in excess of \$4,000 but not exceeding \$10,000, during the preceding fiscal year.
- (7) Whether the charitable organization intends to solicit contributions from the public directly or have the solicitation done on its behalf by others.
- (8) Whether the charitable organization is authorized by any other governmental authority to solicit contributions and whether it is or has ever been enjoined by any court from soliciting contributions.
- (9) The general purpose for which the contributions to be solicited shall be used.
- (10) The name under which it intends to solicit contributions.

- (11) The name of the individual or officer of the charitable organization who will have final responsibility for the custody of the contributions.
- (12) The name of the individual or officer of the charitable organization responsible for the final distribution of the contributions."

**SECTION 3.** Section 467B-10, Hawaii Revised Statutes, is amended to read as follows:

**"§467B-10 Enforcement and penalties.** (a) If any registered charitable organization, professional fund-raising counsel, or professional solicitor fails to file any registration application or statement, report, or other information required to be filed under this chapter or otherwise violates this chapter, the director shall notify the delinquent charitable organization, professional fund-raising counsel, or professional solicitor by mailing a notice by registered or certified mail, with return receipt requested, to its last known address. If the required registration application or statement, annual report, or other information is not filed, or if the existing violation is not discontinued within two weeks after the formal notification or receipt of the notice, the director may cancel, suspend, or refuse to accept the registration or other required information of the delinquent charitable organization, professional fund-raising counsel, or professional solicitor.

(b) If any registered charitable organization files a financial statement under section 467B-2(6), the director may examine any records kept by the charitable organization as is necessary to protect the public interest. If the director finds that the financial statement contains any false or misleading information, the director may suspend or cancel the charitable organization's registration.

(c) The director, upon his own motion or upon complaint of any person, may, if he has reasonable ground to suspect a violation, investigate any charitable organization, professional fund-raising counsel, or professional solicitor to determine whether the charitable organization, professional fund-raising counsel, or professional solicitor has violated this chapter or has filed any application or other information required under this chapter which contains false or misleading statements. If the director after notice and hearing finds that any application or other information contains false or misleading statements, or that a registrant under this chapter has violated this chapter, he may order the registration suspended or canceled.

(d) The registration of any charitable organization, professional fund-raising counsel, or professional solicitor, which knowingly makes a false or misleading statement in any registration application or statement, report, or other information required to be filed by the department of this chapter shall, upon notice and hearing, be revoked.

(e) All proceedings under this chapter shall be conducted in accordance with this chapter and all adjudications of the director shall be subject to judicial review as provided therein.

(f) In addition to the foregoing, any person who wilfully and knowingly violates this chapter, or who wilfully and knowingly gives false or incorrect information to the director in filing statements or reports required by this chapter, whether the reports or statements are verified or not, shall for the first offense be fined not less than \$100 nor more than \$500, or imprisoned not more than six months, or both, and for the second and any subsequent offense, be fined not less than \$500 nor more than \$1,000, or imprisoned not more than one year, or both.

(g) Whenever the director has reason to believe that any charitable organization, professional fund-raising counsel, or professional solicitor is operating in violation of this chapter, or has knowingly and wilfully made any false statement in any registration application or statement, report, or other information required to be filed by this chapter, or whenever a charitable organization, professional fund-raising counsel, or professional solicitor fails to file a registration statement required by this chapter, or whenever there is employed or is about to be employed in any solicitation or collection of contributions for a charitable organization, any device, scheme, or artifice to defraud or to obtain money or property by means of any false pretense, representation, or promise, or whenever the officers or representatives of any charitable organization, professional fund-raising counsel, or professional solicitor have refused or failed after notice to produce any records of the organization, or whenever the funds raised by solicitation activities are not devoted or will not be devoted to the charitable purposes of the charitable organization, in addition to all other actions authorized by law, the director may bring an action in the name of the State against the charitable organization and its officers, professional fund-raising counsel, professional solicitor, or any person employing any device, scheme, artifice, false representation, or promise, to defraud or obtain money or other property, to enjoin the charitable organization, professional fund-raising counsel, professional solicitor, or other person from continuing the violation, solicitation, collection, or engaging therein, or doing any acts in furtherance thereof and for such other relief as the court deems appropriate.

(h) The director may exercise the authority granted in this section against any charitable organization which operates under the guise or pretense of being an organization exempted by section 467B-11, and is not an organization entitled to such an exemption."

**SECTION 4.** Chapter 467B, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

"**§467B-13 Rules.** The director may make, amend, or repeal such rules pursuant to chapter 91, as may be deemed proper to effectuate this chapter."

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

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

(Approved May 26, 1981.)

A Bill for an Act Relating to the State Higher Education Loan Fund.

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

**SECTION 1.** The purpose of this Act is to provide for changes in the area of eligibility and the amount of the award under the state higher education loan fund

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## **ACT 56**

program so as to make those provisions comparable to the provisions of the national direct student loan fund program on the federal level.

**SECTION 2.** Section 304-92, Hawaii Revised Statutes, is amended to read:

**“§304-92 Eligibility for loans; amounts.** Eligibility for loans from the loan fund is limited to students at the University of Hawaii or the community colleges of the State who have been residents of the State for at least one year and are enrolled in a full-time program which culminates in the award of a degree. The amount to be loaned to a student shall be determined by the board of regents based on need for financial aid, academic promise, and deportment. The maximum amount of loans that a student may receive under this program shall be an aggregate amount of no more than \$5,000 for all undergraduate study and \$10,000 for all combined undergraduate and graduate study, or amounts equivalent to those established for the National Direct Student Loan Program authorized under Title IV, Part E, of the Higher Education Act of 1965, as amended, whichever is greater.”

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

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

(Approved May 26, 1981.)

## **ACT 56**

**S.B. NO. 1628**

A Bill for an Act Relating to Motor Vehicle Accident Reparations.

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

**SECTION 1.** Chapter 294, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§294- Vehicles with fewer than four wheels; specialty insurers not prohibited.** Nothing in this chapter shall prevent an insurer from offering no-fault insurance policies for only motor vehicles with fewer than four wheels.”

**SECTION 2.** New statutory material is underscored.\*

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

(Approved May 26, 1981.)

## **ACT 57**

**S.B. NO. 1642**

A Bill for an Act Relating to Nursing.

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

**SECTION 1.** The legislature finds that insofar as section 457-5(a) (2) empowers the board of nursing to approve curricula for educational programs preparing persons for licensure, as contrasted with empowering the board of nursing

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

to prescribe standards for licensure, it is in conflict with the provisions of Article X, Section 6 of the State Constitution which empowers the board of regents to approve programs and curricula within the university system.

The purpose of this Act is to correct a conflict between the statute and the state Constitution.

SECTION 2. Section 457-5, Hawaii Revised Statutes, is amended to read as follows:

**“§457-5 Duties and powers of the board.** (a) The board shall hold meetings at such times as it deems necessary. The board shall have a president and a secretary-treasurer who shall be elected annually from its members.

The board may:

(1) Adopt, amend or repeal such rules and regulations, pursuant to chapter 91, not inconsistent with the law, as may be necessary, to enable it to carry into effect this chapter;

(2) Prescribe standards [and approve curricula for educational programs] for preparing persons for licensure under this chapter;

(3) Provide for surveys of [such] educational programs at such times as it may deem necessary;

(4) Accredit [such] educational programs as meet the requirements of this chapter and the rules and regulations of the board;

(5) Deny or withdraw accreditation from educational programs for failure to meet prescribed standards;

(6) Examine, license, and renew the licenses of qualified applicants;

(7) Conduct hearings upon charges calling for discipline of a licensee or, denial, suspension, or revocation of a license;

(8) Exercise the power to issue subpoenas, compel the attendance of witnesses, and administer oaths to persons giving testimony at hearings;

(9) Cause the prosecution of all persons violating this chapter and to incur necessary expenses therefor;

(10) Keep a record of all its proceedings; and

(11) Make an annual report to the governor.

(b) 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 3. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved May 26, 1981.)

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 304-8.1, Hawaii Revised Statutes, is amended to read as follows:

## ACT 59

**“§304-8.1 Research and training revolving fund.** (a) There is established a University of Hawaii research and training revolving fund into which shall be deposited a maximum of \$1,000,000 annually from indirect overhead sources on account of all university held federal and other research and training contracts and grants. The board of regents of the University of Hawaii, upon approval of the governor or the director of finance, if so delegated, is authorized to expend funds deposited in the research and training revolving fund for research and training purposes which may result in additional research and training grants and contracts and for purposes of facilitating research and training at the university.

(b) The University of Hawaii shall prepare and submit an annual report on the status of the research and training revolving fund to the legislature twenty days before the convening of each regular session. The annual report shall include a breakdown of travel expenses.”

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 26, 1981.)

## ACT 59

S.B. NO. 1769

A Bill for an Act Relating to Child Abuse Reports.

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

SECTION 1. Section 350-1, Hawaii Revised Statutes, is amended to read as follows:

**“§350-1 Reports.** (a) Any doctor, which for the purposes of this chapter means any person licensed by the State to render services in medicine, osteopathy, dentistry, or any of the other healing arts, examining, attending, or treating a minor, or any registered nurse, school teacher, social worker, police officer, law enforcement officer, medical examiner, or coroner acting in his official capacity, having reason to believe that such minor has had injury inflicted upon him as a result of abuse or neglect by parents or those responsible for that child's care shall promptly report the matter orally to the department of social services and housing; provided that when examination, attendance, or treatment with respect to the minor is pursuant to the performance of services as a member of the staff of a hospital or similar facility, the staff member shall immediately notify the person in charge of the medical facility, or his designated delegate, who shall report or cause reports to be made in accordance with this chapter.

Abuse or neglect of a minor for the purposes of this chapter means physical injury, psychological abuse and neglect, sexual abuse, negligent treatment, or maltreatment of a child under eighteen years of age under circumstances which indicate that the minor's health or welfare has been or is harmed or threatened thereby.

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

The initial oral report shall be followed as soon as possible by a report in writing; provided that where a police department is the initiating agency a written report shall not be required to be filed with the department of social services and housing unless the police department has declined to take further action and the department of social services and housing informs the police department that it intends to pursue the matter of the orally reported incident of child abuse or neglect. All written reports shall contain the name and address of the minor and of his parents or other persons responsible for his care, if known, the minor's age, the nature and extent of the minor's injuries, and any other information that the reporter believes might be helpful in establishing the cause of the injuries.

Any other person who has reason to believe that a minor has had injury inflicted upon him as a result of abuse or neglect may report the matter orally to the department of social services and housing.

(b) All reports concerning child abuse and neglect, as well as all records of such reports are confidential and any unauthorized disclosure of a report or record of a report is a misdemeanor. The director of social services may adopt, amend, or repeal rules, subject to chapter 91, to provide for the confidentiality of reports and records of reports and for the authorized disclosure of reports and records.

(c) The director of social services may adopt, amend, or repeal rules, subject to chapter 91, to further define the specific forms of child abuse and neglect enumerated by subsection (a) for use in implementing this chapter; provided that rules adopted under this section shall be limited to such definitions."

**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 26, 1981.)

A Bill for an Act Relating to the Importation, Purchase and Sale of Intoxicating Liquor.

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

**SECTION 1.** Section 281-31, Hawaii Revised Statutes, is amended to read as follows:

**“§281-31 Licenses, classes.** Licenses may be granted by the liquor commission as follows:

Class 1. Manufacturers' licenses. A license for the manufacture of liquor shall authorize the licensee to manufacture the liquor therein specified and to sell the same at wholesale in original packages to any person who holds a license to resell the same, and to sell draught beer or wine manufactured from grapes or other fruits grown in the State in any quantity to any person for private use and consumption. Under this

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 60

license no liquor shall be consumed on the premises except as authorized by the commission. Of this class there shall be the following kinds:

- (1) Beer;
- (2) Wine;
- (3) Wine manufactured from grapes or other fruits grown in the State;
- (4) Alcohol;
- (5) Other specified liquor.

It shall be unlawful for any holder of a manufacturer's license to have any interest whatsoever in the license or licensed premises of any other licensee.

Class 3. Wholesale dealers' licenses. A license for the sale of liquors at wholesale shall authorize the licensee to import and sell only to licensees or to others who are by law authorized to resell but are not by law required to hold a license, the liquors therein specified in quantities not less than five gallons at one time if sold from or in bulk containers or not less than one gallon if bottled goods. The license shall authorize the licensee to sell draught beer in quantities not less than five gallons at one time to any person for private use and consumption. Under the license no liquor shall be consumed on the premises except as authorized by the commission. Of this class there shall be the following kinds:

- (1) General (includes all liquors except alcohol);
- (2) Beer and wine;
- (3) Alcohol.

If any wholesale dealer solicits or takes any orders in any county other than that where his place of business is located, the orders may be filled only by shipment direct from the county in which the wholesale dealer has his license. Nothing herein shall prevent a wholesaler from selling liquors to post exchanges, ships service stores, army or navy officers' clubs, or like organizations located on army or navy reservations, or to any vessel other than vessels performing a regular water transportation service between any two or more ports in the State, or to aviation companies who operate an aerial transportation enterprise as a common carrier, under chapter 269, engaged in regular flight passenger services between any two or more airports in the State for use on aircraft, or aviation companies engaged in transpacific flight operations for use on aircraft outside the jurisdiction of the State.

Class 4. Retail dealers' licenses. A license to sell liquors at retail or to class 10 licenses, shall authorize the licensee to sell the liquors therein specified in their original packages. Under the license no liquor shall be consumed on the premises except as authorized by the commission. Of this class there shall be the following kinds:

- (1) General (includes all liquors except alcohol);
- (2) Beer and wine;
- (3) Alcohol.

Class 5. Dispensers' licenses. A dispenser's license shall authorize the licensee to sell liquors therein specified for consumption on the premises. Of this class there shall be the following kinds:

- (1) General (includes all liquors except alcohol);
- (2) Beer and wine;
- (3) Beer.

Class 6. Club licenses. A club license shall be general only (but excluding

alcohol) and shall authorize the licensee to sell liquors to members of the club and to guests thereof enjoying the privileges of membership, for consumption only on the premises kept and operated by the club, and shall also authorize any bona fide club member to keep in his private locker on the premises a reasonable quantity of liquor, if owned by himself, for his own personal use and not to be sold, and which may be consumed only on the premises.

Class 7. Vessel licenses. A general license may be granted to the owner of any vessel performing a regular water transportation passenger service between any two or more ports in the State for the sale of liquor (other than alcohol) on board the vessel while in the waters of the State; provided such sales are made only while the vessel is en route, and only for consumption by passengers on board. If the vessel has a home port in the State the license shall be issuable in the county wherein the home port is situated, otherwise in the city and county of Honolulu. If on any vessel for which no license has been obtained under this chapter any liquor is sold or served within three miles of the shore of any island of the State the same shall constitute a violation of this chapter.

Class 8. Additional vessel licenses. A general license may be granted to the owner of any vessel which does not fall within class 7 for the sale of liquor (other than alcohol) on board the vessel while in any port of the State. Such sales shall be made only for consumption by passengers and their guests on board such vessel. The license shall be issuable in each county where the sales are to be made and the application for the license may be made by any agent representing the owner.

Class 9. Tour or cruise vessel licenses. A general license may be granted to the owner of any tour or cruise vessel for the sale of liquor (other than alcohol) on board the vessel while in the waters of the State; provided such sales are made only for consumption by passengers on board while the vessel is in operation outside the port or dock of any island of the State. If the vessel has a home port in the State, the license shall be issuable in the county wherein the home port is situated, otherwise in the city and county of Honolulu. If on any vessel for which no license has been obtained under this chapter any liquor is sold or served within three miles of the shore of any island of the State, the same shall constitute a violation of this chapter.

Class 10. Special. A special license may be granted for the sale of liquor for a period not to exceed three days on any occasion and under such conditions as may be approved by the commission. Of this class there shall be the following kinds:

- (1) General (includes all liquors except alcohol);
- (2) Beer and wine;
- (3) Beer.

Under such license the liquors therein specified shall be consumed on the premises.

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, and professional entertainment is provided for the patrons. Notwithstanding any rule or regulation of the liquor commission to the contrary, cabarets may be opened for the transaction of business until 4 a.m. throughout the entire week.

## ACT 61

Class 12. Hotel licenses. A license to sell liquor in a hotel shall authorize the licensee to sell all liquors, except alcohol, for consumption on the premises; provided that the liquor commissions in each county shall adopt rules, as deemed appropriate by each respective liquor commission, restricting holders of hotel licenses in selling liquors authorized by retail dealers' licenses.

It shall be unlawful for any retail licensee (Classes 4 through 12) to purchase liquor from any person other than a wholesaler licensed pursuant to this chapter, except as otherwise provided in this section.

Sections 281-57 to 281-61 shall not apply to Classes 7 to 10."

**SECTION 2.** New material is underscored.

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

(Approved May 26, 1981.)

## ACT 61

S.B. NO. 1985

A Bill for an Act Relating to the Statewide Traffic Code.

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

**SECTION 1.** Section 291-34, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Length:

- (1) No single motor vehicle or other power vehicle having a total overall length greater than forty feet, including load, shall be operated or moved upon any public road, street, or highway within the State, except as hereinafter provided.
- (2) No truck-tractor and semitrailer having a total overall length greater than sixty feet, including load, shall be operated or moved upon any public road, street, or highway within the State, except as hereinafter provided; provided that for truck-tractors and semitrailers used for agricultural purposes, or articulated buses for public transit purposes, the total combined length of the truck-tractor and semitrailer or articulated bus shall not exceed sixty-five feet in length; provided further that the length of the semitrailer shall not exceed forty-five feet in length.
- (3) No combination of motor vehicles or other power vehicles coupled together shall consist of more than two units and no such combination of vehicles having a total overall length greater than sixty-five feet, including load, shall be operated or moved upon any public road, street, or highway within the State, except as hereinafter provided. A truck-tractor and semitrailer shall be regarded as a single unit when determining the number of units in a combination.
- (4) No motor vehicle, self-propelled construction or farm equipment, trailer, or semitrailer shall be operated upon any public road, street, or highway within the State if it is carrying or otherwise has projecting to the front or rear, a load, boom, mast, or other projecting structure or attachment unless:
  - (A) With respect to self-propelled construction or farm equipment,

- (i) The length of the equipment measured on a horizontal axis, including the projection, is not greater than forty feet;
  - (ii) The projection is either held securely in place or is controlled by the driver or an operator;
  - (iii) The projection does not obstruct the driver's vision;
  - (iv) The projection does not impair the driver's ability to control the equipment;
  - (v) The projection beyond the front tires is at least seven feet above the roadway surface;
  - (vi) The projection does not extend more than four feet past the extremity of the piece of equipment, or if it extends more than four feet, an escort vehicle is provided by the owner or operator either to the front or to the rear of the projection to call attention to the projection; or
- (B) With respect to a motor vehicle, or a motor vehicle with attached trailer or semitrailer,
- (i) The overall length of a motor vehicle including the projection, is not greater than forty feet or the overall length of the motor vehicle with attached trailer or semitrailer, including the projection, is not greater than sixty feet;
  - (ii) The projection is either held securely in place or is controlled by the driver or an operator;
  - (iii) The projection does not obstruct the driver's vision;
  - (iv) The projection does not impair the driver's ability to control the equipment;
  - (v) The projection beyond the front tires is at least seven feet above the roadway surface;
  - (vi) The projection does not extend more than four feet past the extremity of the trailer or semitrailer, or, if it extends more than four feet, an escort vehicle is provided by the owner or operator either to the front or the rear of the projection to call attention to the projection.
- (5) The foregoing limitations upon length shall not apply to vehicles transporting pipe, poles, timbers, reinforcing steel, structural steel, or other objects of a structural nature which cannot be readily dismembered; provided that when transported by night every such vehicle shall be equipped with a sufficient number of clearance lamps upon the extreme ends of any projecting load to clearly mark the dimensions of the load."

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

SECTION 3. This Act shall take effect on July 1, 1981.

(Approved May 26, 1981.)

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 62

### ACT 62

S.B. NO. 2068

A Bill for an Act Relating to Bail.

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

SECTION 1. Section 804-17, Hawaii Revised Statutes, is amended to read as follows:

**"§804-17 Prompt appearance and response; default.** The names of all persons who have given bail or have become bound by recognizance to appear in any court, shall be called in open court on the day and at the time they are respectively bound to appear, and if they fail to appear promptly and respond thereto, their default shall be entered, and the entry shall be evidence of the breach of their appearance bonds or recognizances."

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 26, 1981.)

### ACT 63

H.B. NO. 1866

A Bill for an Act Relating to the Judiciary.

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

SECTION 1. Section 606-13, Hawaii Revised Statutes, is amended to read as follows:

**"§606-13 Salary and prerequisites of reporters.** Each reporter shall receive for his services as prescribed in section 606-12 the salary that may be appropriated from time to time as compensation for his services in court. He may also charge for his services a fee not to exceed [\$1.25] \$1.50 per twenty-five line page for the original ribbon copy of transcripts of testimony and proceedings and [50 cents] 60 cents per twenty-five line page for each carbon copy thereof made at the same time when such transcripts are prepared in their regular order for the purposes of appeal to the supreme court and a 50 per cent additional fee for expedited service when transcripts are prepared during the course of a trial. The fees for transcripts ordered by a party must be paid by the party ordering the same and, except in the case of the attorney general, or the county or prosecuting attorneys or corporation counsels, no reporter shall be required to perform any such service until his fees have been paid or the amount of the estimated costs of the fees deposited with the clerk of the court.

Where the court, of its own motion, orders a transcript to be prepared of the whole or any part of the testimony in a civil cause, it may, in its discretion, direct the payment of the charges therefor, and the taxation of the same as costs, in such manner as to it may seem just. Where the attorney general, or a county or

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

prosecuting attorney or corporation counsel, desires transcripts for his own official use, either original or carbon copy, the reporter may be paid for same by warrant upon the treasury of the State, or county, as the case may be.

When a transcript is prepared from a tape, or other record of the testimony and proceedings made by a mechanical device, the transcript fees shall be those applicable when a transcript is prepared by an official court reporter from his notes. A transcript not prepared by an official court reporter shall be certified by a clerk of the court.

The reporter or other person preparing transcripts shall provide, at his own expense, all typewriting paper and carbon paper necessary to the preparation thereof."

**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 26, 1981.)

**ACT 64**

S.B. NO. 163

A Bill for an Act Relating to Indexing the Hawaii Revised Statutes.

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

**SECTION 1.** The director of the office of the legislative reference bureau is authorized to contract with a qualified law book publisher or other competent persons for the preparation of a re-compiled comprehensive index to the Hawaii Revised Statutes which shall include index references to the Hawaii and United States constitutions and the Hawaiian Homes Commission Act.

**SECTION 2.** As soon as the work of indexing is completed sufficient copies of the index are to be printed under contract in conformance with chapter 23G, part II, Hawaii Revised Statutes. The index shall be made up, printed, and bound to correspond as nearly as practicable with the present index volume of the Hawaii Revised Statutes or in such other form or manner as the office of the legislative reference bureau deems advisable.

**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 the fiscal years 1981-1982, 1982-1983, 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, 1983 shall lapse into the general fund.

**SECTION 4.** The sum appropriated shall be expended by the office of the legislative reference bureau for the purposes of this Act.

**SECTION 5.** This Act shall take effect on July 1, 1981.

(Approved May 28, 1981.)

A Bill for an Act Relating to Massage.

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

SECTION 1. Section 452-1, Hawaii Revised Statutes, is amended to read as follows:

**"§452-1 Definitions.** For the purpose of this chapter, the following definitions shall be adopted:

- (1) "Board" means the board of massage created under this chapter.
- (2) "Massage" or "massaging" and "Hawaiian massage" commonly known as lomilomi, means any method of treatment or therapy of the superficial soft parts of the body, consisting of rubbing, stroking, tapping, pressing, shaking, or kneading with the hands, feet, or elbow, and whether or not aided by any mechanical or electrical apparatus, appliances, or supplementary aids such as rubbing alcohol, liniments, anti-septics, oils, powder, creams, lotions, ointments, or other similar preparations commonly used in this practice.
- (3) "Massage therapist" means any person who engages in the occupation or practice of massage for compensation.
- (4) "Massage therapist apprentice" means any person who engages in the occupation or practice of massage for compensation under the direct supervision of a massage therapist.
- (5) "Massage establishment" means premises occupied and used for the purpose of practicing massage; provided that when any massage establishment is situated in any building used for residential purposes, the massage establishment premises shall be set apart and shall not be used for any other purpose.
- (6) "Out-call massage service" means any business, the primary function of which is to engage in or carry on the practice of massage, not at a fixed location but at a location designated by the customer, client, or service."

SECTION 2. Section 452-2, Hawaii Revised Statutes, is amended to read as follows:

**"§452-2 License required.** It is unlawful for any person in the State to engage in or attempt to engage in the occupation or practice of massage for compensation without a current massage therapist license or massage therapist apprentice permit issued pursuant to this chapter. It is also unlawful for any person to advertise massage services without a current massage therapist license issued pursuant to this chapter."

SECTION 3. Section 452-5, Hawaii Revised Statutes, is amended to read as follows:

**"§452-5 Organization of the board.** The board shall have a chairman who shall be elected annually from among its members."

SECTION 4. Section 452-6, Hawaii Revised Statutes, is amended to read as follows:

"§452-6 Powers and duties of the board. (a) The board shall adopt rules pursuant to chapter 91 for the purposes of this chapter.

(b) The board may grant, or upon proof of violation of this chapter or the rules adopted by the board governing the practice under this chapter, revoke, suspend, or refuse to renew a license as provided in this chapter.

(c) The board may refuse to grant a license to or may refuse to renew or may revoke a license of a person found guilty of fraud in meeting any requirement of this chapter or an offense involving moral turpitude; addicted to liquor or drugs; or failing to display a license as provided in this chapter.

(d) The board shall adopt rules pursuant to chapter 91 relating to massage therapist apprenticeship including rules establishing qualifications for apprenticeship permits and the requirements to be met by massage therapist apprentices prior to taking the massage therapist license examination.

(e) The executive secretary, under the direction of the board, shall issue subpoenas for the attendance of witnesses before the board with the same effect as if they were issued in an action in the circuit court, and shall, under the direction of the board, administer oaths in all matters pertaining to the duties of his office or connected with the administration of the affairs of the board. Disobedience of such a subpoena and false swearing before the executive secretary or the board shall be attended by the same consequences and be subject to the same penalties as if such disobedience or false swearing occurred in an action in the circuit court."

SECTION 5. Section 452-13, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Massage therapist. The executive secretary of the board shall determine the sufficiency of the preliminary qualifications of applicants for admission to examination and licensing.

- (1) An applicant for examination shall have good moral character, and a medical report which shall include an X-ray examination of the chest made, or a tuberculin clearance reported dated, not more than six months prior to the date of application and a statement by a licensed physician that the applicant has been examined and is free of all other communicable and contagious diseases. A non-refundable application fee of \$15 and an examination fee of \$15, which shall be refunded only if the board finds that the applicant is not qualified to take the license examination, shall be paid to the board at the time of the application.
- (2) The board shall satisfy itself as to the good moral character of the applicant, may require the submission of certification as to good moral character by reputable citizens, and, in its discretion, may independently investigate the applicant's moral character.
- (3) An applicant for examination shall have spent at least six months as a massage therapist apprentice and have met all other requirements set for apprentices by the board pursuant to section 452-6(d).
- (4) The board may waive the examination of an applicant upon the payment of the application fee and the submittal of a medical report as required in paragraph (1) if the applicant is licensed in another state, territory, or the District of Columbia, wherein the license requirements are

found by the board to be comparable or more stringent than the requirements in force in this State."

SECTION 6. Section 452-15, Hawaii Revised Statutes, is amended to read as follows:

**"§452-15 Licenses.** If an applicant for an examination for massage therapist passes the examination to the satisfaction of the board, or the board has waived the examination under section 452-13(a) (4), and the applicant has paid a license fee of \$25, the board shall issue a license to that effect, signed by the chairman. The license shall be evidence that the person to whom it is issued is entitled to follow the practice stipulated therein as prescribed in this chapter. The license shall not be transferable and shall be conspicuously displayed in the place of business or employment."

SECTION 7. Section 452-19, Hawaii Revised Statutes, is amended to read as follows:

**"§452-19 Penalties.** (a) Any person who practices massage, maintains a massage establishment or out-call massage service, or both, or acts in any capacity wherein a license is required by this chapter, without a license provided for in this chapter, shall be fined not more than \$500 or imprisoned not more than six months, or both.

(b) Any owner, operator, manager, or licensee in charge of or in control of a massage establishment or out-call massage service who knowingly employs a person who is not licensed as a massage therapist or who has not received a permit as a massage therapist apprentice as provided in this chapter or who allows such an unlicensed person to perform, operate, or practice massage is guilty of a misdemeanor, and upon conviction such person shall be fined not more than \$1,000 or imprisoned not more than one year, or both."

SECTION 8. 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, 1979:

- (1) Chapter 443 (Collection Agencies Board)
- (2) Chapter 467A (Rental Agencies)
- (b) The following chapters are hereby repealed effective December 31, 1980:
  - (1) Chapter 436 (Board of Examiners for Abstract Makers)
  - (2) Chapter 468J (Travel Agencies)
  - (3) Chapter 443 (Collection Agencies Board)
- (c) The following chapters are hereby repealed effective December 31, 1981:
  - (1) Chapter 441 (Cemetery Board)
  - (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
  - (3) Chapter 457B (Board of Examiners of Nursing Home Administrators)
  - (4) Chapter 458 (Board of Dispensing Opticians)
  - (5) Chapter 459 (Board of Examiners in Optometry)
  - (6) Chapter 465 (Board of Certification for Practicing Psychologists)
  - (7) Chapter 468E (Board of Speech Pathology and Audiology)
  - [8] Chapter 452 (Board of Massage)]

- (d) The following chapters are hereby repealed effective December 31, 1982:
  - (1) Chapter 436D (Board of Acupuncture)
  - (2) Chapter 437B (Motor Vehicle Repair Industry Board)
  - (3) Chapter 442 (Board of Chiropractic Examiners)
  - (4) Chapter 448E (Board of Electricians and Plumbers)
  - (5) Chapter 464 (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
  - (6) Chapter 466 (Board of Public Accountancy)
  - (7) Chapter 467 (Real Estate Commission)
  - (8) Chapter 448H (Elevator Mechanics Licensing Board)
- (e) The following chapters are hereby repealed effective December 31, 1983:
  - (1) Chapter 444 (Contractors License Board)
  - (2) Chapter 448 (Board of Dental Examiners)
  - (3) Chapter 453 (Board of Medical Examiners)
  - (4) Chapter 457 (Board of Nursing)
  - (5) Chapter 460 (Board of Osteopathic Examiners)
  - (6) Chapter 460J (Pest Control Board)
  - (7) Chapter 461 (Board of Pharmacy)
- (f) The following chapters are hereby repealed effective December 31, 1984:
  - (1) Chapter 455 (Board of Examiners in Naturopathy)
  - (2) Chapter 463E (Podiatry)
  - (3) Chapter 438 (Barbering, Practice of)
- [[(4)[]]] Chapter 439 (Beauty Culture)
  - (5) Chapter 452 (Massage)
- (g) The following chapters are hereby repealed effective December 31, 1985:
  - (1) Chapter 437 (Motor Vehicle Industry Licensing Board.)[.]
  - (2) Chapter 440 (Boxing Commission)
- (h) The following chapters are hereby repealed effective December 31, 1986:
  - (1) Chapter 447 (Dental Hygienists)
- [[(2)[]]] Chapter 463 (Board of Private Detectives and Guards)
  - [[(3)[]]] Chapter 471 (Board of Veterinary Examiners)."

SECTION 9. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 10. This Act shall take effect 60 days after its approval.

(Approved May 28, 1981)

ACT 66

S.B. NO. 567

A Bill for an Act Relating to No Fault Insurance.

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

\*Edited accordingly except as to section 8 which is set out in full.

## ACT 67

SECTION 1. Section 294-35.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The commissioner shall deposit these underwriters' fees into a special drivers' education fund account which shall be allocated for the fiscal year 1977-78 and the fiscal years thereafter, fifty per cent to the commissioner which shall be expended for the operation of the driver education program provided for in section 286-128(m) and fifty per cent to the superintendent of the department of education to support the driver education program administered by the department for high school students; provided that all fees received, under section 294-35.5(a), which are derived from motorcycles, motor scooters, or similar vehicles, shall be expended by the University of Hawaii community college employment training office for the operation of a driver education program for operators of motorcycles, motor scooters, or similar vehicles."

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 28, 1981.)

## ACT 67

S.B. NO. 568

A Bill for an Act Relating to Driving Under the Influence of Alcohol.

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

SECTION 1. Section 286-151, Hawaii Revised Statutes, is amended to read as follows:

**"§286-151 Implied consent of driver of motor vehicle to submit to testing to determine alcoholic content of blood.** Any person who operates a motor vehicle 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 of the person's breath or blood for the purpose of determining the alcoholic content of the person's blood; such person shall have the option to take a test of the person's breath or blood, or both. The test or tests shall be administered at the request of a police officer having reasonable grounds to believe the person driving or in actual physical control of a motor vehicle upon the public highways is under the influence of intoxicating liquor only after (1) a lawful arrest, and (2) the police officer has informed the person of the sanctions of section 286-155."

SECTION 2. Section 286-155, Hawaii Revised Statutes, is amended to read as follows:

**"§286-155 Revocation of privilege to drive motor vehicle upon refusal to submit to testing.** If a person under arrest refuses to submit to a breath or blood test,

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

none shall be given, except as provided in section 286- , but the arresting officer shall, as soon as practicable, submit an affidavit to a district judge of the circuit in which the arrest was made, stating:

- (1) That at the time of the arrest, the arresting officer had reasonable grounds to believe the arrested person had either been driving or was in actual physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor;
- (2) That the arrested person had been informed of the sanctions of this section; and
- (3) That the person had refused to submit to a breath or blood test.

Upon receipt of the affidavit, the district judge shall hold a hearing as provided in section 286-156, and shall determine whether the statements contained in the affidavit are true and correct. If the district judge finds the statements contained in the affidavit are true, the judge shall revoke the arrested person's license, permit, or any nonresident operating privilege for a period of six months.

If the arrested person is a resident without a license or permit to operate a motor vehicle in the State, the district judge shall send notice of the results of the hearing to the examiners of drivers of all counties. The examiners of drivers shall deny the person the issuance of a license or permit for the period of six months.

The penalties provided by this section are additional penalties and not substitutes for other penalties provided by law."

SECTION 3. Chapter 286, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§286- Applicable scope of part VII chapter 286.** Nothing in this part shall be construed to prevent the police from obtaining a sample of breath or blood as evidence of intoxication from the driver of any vehicle involved in an accident resulting in injury to or death of any person."

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

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

(Approved May 28, 1981.)

A Bill for an Act Relating to Theft.

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

SECTION 1. Section 708-831, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

**"§ 708-831 Theft in the first degree.** (1) A person commits the offense of theft in the first degree if he commits theft:

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 69

- (a) By obtaining property from the person of another; or
- (b) Of property or services the value of which exceeds \$200; or
- (c) Of a firearm; or
- (d) Of dynamite or other explosive; or
- (e) By having in his possession a live animal or the carcass or meat, of the bovine, equine, swine, or sheep species, while in or upon premises which he entered knowingly or remained unlawfully in or upon, and which are fenced or enclosed in a manner designed to exclude intruders or by having in his possession said live animal, carcass or meat in any other location."

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 28, 1981.)

ACT 69

S.B. NO. 1163

A Bill for an Act Relating to Chapter 706, Hawaii Revised Statutes.

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

SECTION 1. Section 706-606.5, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

"(2) Notwithstanding section 706-669 and any other law to the contrary, any person convicted under section 708-811 relating to burglary in the second degree; 708-831 relating to theft in the first degree; 134-7 relating to ownership or possession of firearms or ammunition by persons convicted of certain crimes; 134-8 relating to ownership, etc., of prohibited weapons; 134-9 relating to permits to carry; 707-702 relating to manslaughter; 707-703 relating to negligent homicide in the first degree; 707-711 relating to assault in the second degree; 707-713 relating to reckless endangering in the first degree; 707-716 relating to terroristic threatening in the first degree; 707-721 relating to unlawful imprisonment in the first degree; 707-731 relating to rape in the second degree; 707-732 relating to rape in the third degree; 707-734 relating to sodomy in the second degree; 707-735 relating to sodomy in the third degree; 707-736 relating to sexual abuse in the first degree; 707-741 relating to incest; 707-750 relating to promoting child abuse in the first degree; 707-751 relating to promoting child abuse in the second degree; 707-765 relating to extortion in the first degree; 707-766 relating to extortion in the second degree; 708-820 relating to criminal property damage in the first degree; 708-841 relating to robbery in the second degree; 710-1020 relating to escape in the first degree; 710-1031 relating to intimidation of a correctional worker; 710-1071 relating to intimidating a witness; 710-1074 relating to intimidating a juror; or 712-1202 relating to promoting prostitution in the first degree who has a prior conviction or prior convictions for

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

one or more offenses enumerated in subsection (1) or this subsection in this or another jurisdiction, within the time of the maximum sentence of any prior conviction, shall be sentenced to a mandatory minimum period of imprisonment without possibility of parole during such period as follows:

- (a) One prior conviction-3 years;
- (b) Two prior convictions-5 years."

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 28, 1981.)

ACT 70

H.B. NO. 694

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:

"**§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 agency, he shall make written application therefor 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 purpose, shall determine whether or not the business of such agency warrants the establishment of such a fund, and if he is satisfied that such fund is necessary, he shall issue a state warrant to such agency for such amount as he shall determine, not to exceed, however, the sum of [\$5,000.] \$25,000, except that this limitation of [\$5,000] \$25,000 shall not apply to the University of Hawaii and the stadium authority.

The comptroller may prescribe such rules and regulations as he may deem necessary for the proper administration and accountability of these funds."

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 28, 1981.)

ACT 71

H.B. NO. 738

A Bill for an Act Relating to the Department of Health.

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 71

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

SECTION 1. Section 321-52, Hawaii Revised Statutes, is amended to read:

**"§321-52 Powers, duties, and activities of the department.** The department of health shall have, among other powers necessary to carry out the purposes of this part, the power:

- (1) To establish and administer a program of services for children who are crippled or who are suffering from conditions which lead to crippling, 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; and, cooperate with the department of education for the education of such children;
- (2) To formulate and administer a detailed plan for the purposes specified in paragraph (1) above; and [make] adopt such rules [and regulations] 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 Title V of the Social Security Act (49 Stat. 631-633 (1935), 42 U.S.C. Secs. 711-715);
  - (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 [Labor] Health and Human Services of the United States;
  - (E) Carrying out the purposes specified in paragraph (1) above;
  - (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;
- (3) To 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."

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 28, 1981.)

## ACT 72

H.B. NO. 753

A Bill for an Act Relating to Irrigation Systems Rates and Charges.

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

SECTION 1. Section 174-11, Hawaii Revised Statutes, is amended to read:

**"§174-11 Rate policy; sale of excess water.** The board of land and natural resources shall have the power to fix and adjust rates and charges for the furnishing of irrigation or domestic water and for water service so that the revenues derived therefrom [shall] may be sufficient to cover the cost of operation, maintenance, and replacement and may make such charges as may be necessary to cover the capital cost of the system or other costs incurred in connection with such system.

Nothing in this chapter shall be construed to prevent the board from selling water to persons other than land occupiers and other consumers within a water project in the event and to the extent that water in excess of the needs of the land occupiers and other consumers may from time to time be available."

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 28, 1981.)

## ACT 73

H.B. NO. 762

A Bill for an Act Relating to Game Birds.

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

SECTION 1. Section 192-10, Hawaii Revised Statutes, is amended to read:

**"§192-10 Penalty.** Any person who wilfully violates this chapter, upon conviction thereof, shall be guilty of a petty misdemeanor and shall be fined not more than \$500 or imprisoned not more than thirty days, or both."

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 28, 1981.)

## ACT 74

H.B. NO. 763

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

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

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 75

SECTION 1. Section 195-8, Hawaii Revised Statutes, is amended to read:

**"§195-8 Penalty.** Any person who violates any of the laws and rules applicable to the reserves system, upon conviction thereof, shall be guilty of a misdemeanor and shall be fined not more than \$1,000 or imprisoned not more than one year, or both, for each offense."

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 28, 1981.)

## ACT 75

H.B. NO. 779

A Bill for an Act Relating to Department of Regulatory Agencies.

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

SECTION 1. Section 26-9, Hawaii Revised Statutes, is amended by amending subsection (i) to read:

"(i) 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 regulatory agencies. 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 regulatory agencies for administrative purposes from adopting, amending, or repealing rules, except as provided for in subsection (j). 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 of regulatory agencies."

SECTION 2. New statutory material is underscored.\*

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

(Approved May 28, 1981.)

## ACT 76

H.B. NO. 792

A Bill for an Act Relating to Housing.

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

SECTION 1. Section 359G-4.1, Hawaii Revised Statutes, is amended to read:

**"§359G-4.1 Housing development; exemption from statutes, ordinances, charter provisions, rules.** (a) The authority may develop, on behalf of the State or in partnership, or may assist under a government assistance program in the develop-

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

ment of housing projects which shall be exempt 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 of units thereon; provided that:

- (1) The authority finds the project is consistent with the purpose and intent of this chapter, 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 legislative body of the county in which the project is to be situated shall have approved the project.
  - (A) The legislative body shall approve or disapprove the project within forty-five days after the authority has submitted the plans and specifications for the project to the legislative body. If after the forty-fifth day a project 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 project approved by the legislative body, shall constitute the zoning, building, construction, and subdivision standards for that project. For purposes of sections 501-85 and 502-17, the executive director of the authority or the responsible county official 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.
- (b) For the purposes of this section, "government assistance program" means a housing program qualified by the authority and administered or operated by the authority or the United States or any of their political subdivisions, agencies, or instrumentalities, corporate or otherwise."

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 28, 1981.)

A Bill for an Act Relating to Intake Service Centers.

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

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

**SECTION 1.** Section 353-1.4, Hawaii Revised Statutes, is amended to read:

**"§353-1.4 Creation of intake service center.** There shall be within the department of social services and housing, for administrative purposes, an intake service center for each of the counties. Each center shall be directed and managed by an administrator to be appointed pursuant to chapters 76 and 77. There shall be an over-all state executive director of all the intake service centers who shall manage, control, and direct all of the intake service centers and provide periodic reports not less than annually on their operations to the governor and the intake service center board. The state executive director shall be appointed by the governor without regard to chapters 76 and 77 but shall meet the qualifications for the position determined by the department of personnel services. Any center may be integrated with and operated concurrently with a community correctional center.

The intake service center shall:

- (1) Provide guidance and technical services for volunteer referrals and to admitted persons, correctional diagnostic and evaluation services for diversionary determinations, pre-sentence investigations for the courts, and post-sentence correctional prescription program planning for committed persons;
- (2) Provide non-custodial and program services for persons awaiting judicial disposition who have not been conditionally released;
- (3) Provide such other personal and correctional services as needed;
- (4) Monitor and record the progress of persons admitted to the center, who undergo further treatment or who participate in prescribed correctional programs;
- (5) Refer persons admitted to the center in selected cases, to community programs pending judicial disposition or where judicial proceedings are discontinued or suspended;
- (6) Provide for adult persons, correctional services including but not limited to orientation, social, psychiatric-psychological evaluations, employment counseling, social inventory and programming, medical and dental services, and referral services to community programs.

The intake service center may be staffed by full-time or part-time professional and clerical staff appointed pursuant to chapters 76 and 77, or utilize contractual professional services."

**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 28, 1981.)

**ACT 78**

**H.B. NO. 805**

A Bill for an Act Relating to the Transfer of All Functions, Powers and Duties

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

Involving the Taxation of Real Property to the Counties.

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

SECTION 1. Section 246A-4, Hawaii Revised Statutes, is amended to read:

**“§246A-4 Appeals.** The right of appeal from administrative actions or determinations as now provided by law shall not be impaired by this chapter.

Each of the counties shall by ordinance provide for appeals from assessments, denial of an exemption, or the denial of a dedication.

For purposes of this transfer, all appeals from the assessment of real property taxes made to the various boards of taxation review, all appeals from the denial of an exemption made to such boards, and every other appeal made to such boards prior to July 1, 1981, shall continue to be heard and decided by the board of taxation review for the taxation district in which the appeals have been made. The jurisdiction of all such boards to hear and decide the appeal shall extend and continue over such matters until decision is filed with the assessor as provided in section 232-7. Any such decision made by the board may be appealed to the tax appeal court as provided in chapter 232.”

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 28, 1981.)

ACT 79

H.B. NO. 1060

A Bill for an Act Relating to Urban Renewal.

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

SECTION 1. Section 53-16, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Bonds of an agency shall be authorized by its resolution and may be issued in one or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rate or rates, as established by the legislative bodies of the counties, be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms or redemption (with or without premium) as the resolution, its trust indenture, or mortgage may provide.”

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

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

**ACT 80**

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

(Approved May 28, 1981.)

**ACT 80**

**H.B. NO. 1469**

A Bill for an Act Relating to the Statewide Fish Aggregating System.

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

**SECTION 1. Purpose.** The purpose of this Act is to provide the department of land and natural resources with authority to establish administrative rules relating to the continued development, improvement, use and enforcement of the Fish Aggregating Devices.

**SECTION 2.** Chapter 189, Hawaii Revised Statutes, is amended by adding two new sections, to be appropriately designated and to read:

**“§189- Authority.** The department of land and natural resources may promulgate and enforce rules concerning the use of fish aggregation devices deployed under the Statewide Fish Aggregating System. The rules may include provisions that prohibit attaching, mooring, or tying any boat or other watercraft to the fish aggregating devices, or boarding, defacing, damaging, removing or destroying such devices; provided that the department may engage in such activities as deemed necessary to enhance the fish aggregating system.

**“§189- Penalty.** A person violating the provisions of section 189- shall be guilty of a petty misdemeanor, and upon conviction thereof, shall be punished as provided by law; provided that, any punishment for any violation of the provisions shall not be deemed to preclude the State from bringing legal actions for damages to, or loss of, such fish aggregating devices.”

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

(Approved May 28, 1981.)

**ACT 81**

**S.B. NO. 67**

A Bill for an Act Relating to Time Sharing Sales.

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

**SECTION 1.** Chapter 514E, Hawaii Revised Statutes, is amended by adding new sections to be appropriately designated and to read as follows:

**“§514E- Power to enjoin.** Whenever it shall appear to the director, upon complaint or otherwise, that any person has engaged in, is engaged in, or is about to engage in any act, practice or transaction in violation of this chapter or the rules of the director adopted pursuant thereto, the director may conduct an investigation of the matter. Whenever the director finds that such person has engaged in, is engaged in, or is about to engage in any act, practice or transaction in violation of this chapter or the rules of the director adopted pursuant thereto, the director may, in addition to any other remedies, bring suit in the name and on behalf of the State against such

person and any other person or persons concerned in, or in any way participating in, or about to participate in such act, practice or transaction in violation of this chapter or rules adopted pursuant thereto, to enjoin such person and such other person or persons from continuing such act, practice or transaction, or engaging therein, or doing any act or acts in furtherance thereof or in violation of this chapter or rules adopted pursuant thereto. The remedies under this section are in addition to any other remedies provided by this chapter or by law.

**§514E- Remedies; sales voidable; when and by whom.** (a) Every sale or transfer made in violation of this chapter shall be voidable at the election of the purchaser. Without limiting any other remedy of the purchaser, the person making the sale or transfer and every director, officer, or agent of or for the seller, if the director, officer, or agent has personally participated or aided in any way in making the sale, transfer, or solicitation, shall be jointly and severally liable to the purchaser in any action at law in any court of competent jurisdiction upon tender of the time share interest sold, or of the contract made, for the full amount paid by the purchaser, with interest at the rate of ten per cent a year from the date of payment by the purchaser, together with all taxable court costs and reasonable attorney's fees, less a pro rata portion of the amount paid representing the portion of any benefits the purchaser actually received or had the right to receive during the time preceding tender.

**§514E- Defense to action.** In the event a purchaser of a time share interest brings an action for damages under this chapter or under chapter 480, pursuant to section 514E-, it shall be a defense to the action that:

- (1) The seller offered in writing to cancel the sale of the time share interest within fifteen days of receipt of written notification by the purchaser of an alleged violation of this chapter or chapter 480, pursuant to section 514E- ;
- (2) The seller simultaneously with the offer of cancellation offered in writing to refund the full amount paid by the purchaser, together with interest thereon at the rate of ten per cent a year from the date of payment by the purchaser until the date of repayment, less a pro rata portion of the amount paid representing the portion of any benefits the purchaser actually received or had the right to receive during the time preceding cancellation; and
- (3) The purchaser refused or failed to accept the written offer of cancellation and refund within thirty days from the date the purchaser received the seller's written offer of cancellation and refund.

**§514E- Statutory or common law remedies.** Nothing in this chapter shall limit any statutory or common law right of any person to bring any action in any court for any act involved in the development, sale, exchange, or purchase of a time share interest, or right of the State to punish any person for any violation of law.

**§514E- Deceptive trade practices.** It shall constitute an unfair or deceptive practice, within the meaning of chapter 480, for any developer, acquisition agent, or sales agent to:

- (1) Use any promotional device, including but not limited to entertainment, prizes, gifts, food and drinks, games, or other inducements without fully disclosing that the device is being used for the purpose of soliciting sales

- of time share interests;
- (2) Fail to inform each purchaser orally and in writing, at the time he signs the contract of his five-day right to cancel or void the contract to purchase a time share interest in a time share plan or unit;
  - (3) Misrepresent in any manner the purchaser's right to cancel or void any contract to purchase a time share interest in a time share plan or unit;
  - (4) Include in any contract or document provisions purporting to waive any right or benefit to which the purchaser is entitled under this chapter;
  - (5) Fail or refuse to honor any valid notice of cancellation of the contract by the purchaser, and within fifteen business days after receipt of such notice, fail or refuse to refund all payments made under the contract or sale; or fail or refuse to cancel and return any negotiable instrument executed by the buyer in connection with the contract or sale and take any appropriate action to terminate promptly any mortgage, lien, or other security interest created in connection with the transaction;
  - (6) Fail to include on promotional literature and other printed or written material the caption "THIS IS A TIME SHARING SALES PRESENTATION" (in capital letters of 24-point bold type, or type as large as the largest printing or writing elsewhere in the material), under which must be printed (in type of the same size as the caption described above) the following: "Any purchaser has, under the law, a five-day right of rescission of any time sharing sales contract";
  - (7) Misrepresent the amount of time or period of time the time share unit will be available to any purchaser;
  - (8) Misrepresent or deceptively represent the location or locations of the offered time share unit;
  - (9) Misrepresent the size, nature, extent, qualities, or characteristics of the offered time share units;
  - (10) Misrepresent the nature or extent of any services incident to the time share unit;
  - (11) Misrepresent the conditions under which a purchaser may exchange his occupancy rights to a time share unit in one location for occupancy rights to a time share unit in another location; or
  - (12) Fail to orally disclose during the initial contact with a prospective purchaser that any promised entertainment, prizes, gifts, food and drinks, games, or other inducements are being offered for the purpose of soliciting sales of time share interests in time share units or plans.

**§514E- Exchange program; general provisions.** (a) An exchange agent (including the developer if it is also an exchange agent) shall distribute not less than annually to each purchaser of a time share interest participating in the exchange program materials containing written information which shall include the following:

- (1) The manner in which the program is operated, the identity of the persons operating the program, and the affiliation between the persons operating the program and the developer;
- (2) Whether membership, participation, or both, in the program are voluntary or mandatory;
- (3) The costs or ranges of costs of membership and participation in the

- program as of a specified date, not more than one year before the disclosure statement is delivered to the purchaser, and the person to whom those costs are payable;
- (4) Whether and how any of the costs specified in paragraph (3) may be altered, which costs are to be fixed on a case-by-case basis, and the manner in which they are to be fixed in each case;
  - (5) A description of the availability of time share units represented to be participating in the exchange program;
  - (6) The reservation and confirmation or other procedures to effectuate the exchange of occupancy rights; and
  - (7) Other disclosures required by the director as provided by rules adopted pursuant to chapter 91.
- (b) A copy of the most current written materials supplied by the exchange agent pursuant to subsection (a) of this section shall be delivered to each purchaser simultaneously with the delivery of the disclosure statement.
- (c) If the exchange agent is not the developer, a subsidiary of the developer, controlled by the developer, or affiliate with the developer, then:
- (1) The developer shall have no liability for the publication or distribution by the developer of the most current written materials supplied to the developer by the exchange agent pursuant to this section or the rules adopted by the director; and
  - (2) The exchange agent shall have no liability with respect to any violation of this chapter or the rules adopted by the director arising out of the use by a developer of information relating to an exchange program other than that provided to the developer by the exchange agent.

**§514E- Licensing of sales agents and acquisition agents.** Except as provided in section 467-2, no sales agent or acquisition agent shall act or assume to act as a real estate salesman or a real estate broker without a license previously obtained under and in compliance with chapter 467 and the rules and regulations of the real estate commission."

**SECTION 2.** Section 514E-1, Hawaii Revised Statutes, is amended by amending the definition of "Sales agent" to read as follows:

"(8) "Sales agent" means a person who sells or offers to sell for compensation a time share interest in a time share plan, except a person who acquired a time share interest for the person's own occupancy and later offers it for resale."

**SECTION 3.** Section 514E-1, Hawaii Revised Statutes, is amended by adding four definitions to be appropriately designated and to read as follows:

( ) "Exchange agent" means a person who operates an exchange program.

( ) "Exchange program" means a plan or program in which the owners or holders of time share interests in time share plan may exchange occupancy rights among themselves or with the owners or holders of time share interests in other time share plans or with the owner or holders of units in other projects.

( ) "Persons" means one or more natural persons, partnerships, joint ventures, corporations, associations, trusts, other entities, or any combination thereof.

( ) "Time share interest" means any interest in a time share unit or plan which entitles the owner or holder thereof to the use, occupancy or possession of a time

share unit on a periodically recurring basis."

SECTION 4. Section 514E-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- (a) Any offering of a time sharing plan to the public shall disclose:
  - (1) The name and address of the developer and of the time share units;
  - (2) The name and address of the plan manager, if any, and a description of his responsibilities and authority;
  - (3) A description of the time share units, including the developer's schedule for completion of all buildings, units and amenities and dates of availability;
  - (4) If the time share plan is located in a horizontal property regime, a description of the project and any pertinent provisions of the project instruments;
  - (5) Any restraints on the transfer of the buyer's time share interest in the time share units or plan;
  - (6) Whether the time share plan is a time share ownership plan or a time share use plan, along with a description of the rights and responsibilities under said plan;
  - (7) A statement that there is a five calendar day period of mutual rescission;
  - (8) A statement that pursuant to section 514E-, every sale or transfer, made in violation of this chapter is voidable at the election of the purchaser;
  - (9) Notice of any liens, title defects or encumbrances on or affecting the title to the units or plan;
  - (10) Notice of any pending or anticipated suits that are material to the time share units or plan, of which the developer has, or should have, knowledge;
  - (11) The total financial obligation of the purchaser, which shall include the initial price and any additional charges to which the purchaser may be subject;
  - (12) An estimate of the dues, maintenance fees, real property taxes, and similar periodic expenses, and the method or formula by which they are derived and apportioned; and
  - (13) Other disclosures required by the director, as provided by rules adopted pursuant to chapter 91."

SECTION 5. Section 514E-10, Hawaii Revised Statutes, is amended to read as follows:

**"§514E-10 Filing required; developer, sales agent, acquisition agent, exchange agent, and plan manager.** (a) A developer shall not offer or dispose of a time share unit or a time share interest unless the disclosure statement required by section 514E-9 is filed with the director, pursuant to the time specified in this chapter, or the development is exempt from filing.

(b) An acquisition agent (including the developer if it is also the acquisition agent) shall file with the director a statement setting forth the time sharing plan or plans for which it is providing prospective purchasers, its address, the telephone number, other information required by the director as provided by rules adopted pursuant to chapter 91, and, if the acquisition agent is not a natural person, the name

of the responsible managing employee. All acquisition agents not licensed under chapter 467 shall be approved by the director. The director shall not approve any acquisition agent who is not of good character and who does not possess a reputation for honesty, truthfulness, and fair dealing. The acquisition agent shall furnish evidence that (i) a bond or blanket bond of \$10,000 has been placed with a surety company or a cash bond with the director to cover any violations by the acquisition agent of any solicitation ordinances, or other regulations governing the use of the premise or premises in which time sharing plan or plans are promoted; or (ii) that the acquisition agent is currently licensed pursuant to chapter 467 as a real estate salesman or a real estate broker and his activities as such are covered by the real estate recovery fund established pursuant to chapter 467.

(c) A sales agent (including the developer, if it is also the sales agent) shall file with the director a statement setting forth the time sharing plan or plans that it is selling, its address, telephone number, other information required by the director as provided by rules adopted pursuant to chapter 91, and, if the sales agent is not a natural person, the name of the responsible managing employee and any special escrow accounts set up for the deposit and collection of purchasers' funds. All sales agents not licensed under chapter 467 shall be approved by the director. The director shall not approve any sales agent who is not of good character and who does not possess a reputation for honesty, truthfulness, and fair dealing. The sales agent shall furnish evidence that (i) a bond or blanket bond of \$10,000 has been placed with a surety company or file a cash bond with the director to cover any violations by the sales agent; or (ii) that the sales agent is currently licensed pursuant to chapter 467 as a real estate salesman or real estate broker and his activities as such are covered by the real estate recovery fund established pursuant to chapter 467.

(d) A plan manager (including the developer if it is also the plan manager), shall file with the director a statement setting forth the time sharing plan or plans that it is managing, its principal office address, telephone number, and responsible managing employee. The plan manager shall furnish evidence that a blanket bond of \$10,000 has been placed with a surety company or file a cash bond with the director to cover any default of the plan manager and any of its employees of their duties and responsibilities.

(e) An exchange agent (including the developer if it is also an exchange agent) shall file with the director a statement setting forth the time share plan or plans for which it is offering exchange services, its principal office address and telephone number, and designate its responsible managing employee.

(f) If the acquisition agent, sales agent, or plan manager are under the control of, a subsidiary of, or an affiliate of the developer, the bonds or blanket bonds can be consolidated and set in the amount of \$20,000; provided that there is a disclosure of the affiliation.

(g) Any filing required in this section shall be renewed on December 31 of each odd-numbered year; provided that this shall not relieve the person required to file from the obligation to notify the director promptly of any material change in any information submitted to the director nor shall it relieve the developer of its obligation promptly to file amendments or supplements to the disclosure statement and to supply the same to purchasers of time share interests."

SECTION 6. Section 514E-11, Hawaii Revised Statutes, is amended to read

as follows:

**“§514E-11 Prohibited practices.** It is a violation of this chapter for any sales agent or acquisition agent of time share units or plans to:

- (1) Fail to comply with the disclosure requirements set forth in section 514E-9 or any rule adopted pursuant thereto;
- (2) Use any promotional device, including but not limited to entertainment, prizes, gifts, food and drinks, games, or other inducements, or make any offer thereof, without fully disclosing that the device is being used or offered for the purpose of soliciting sales of time share units or interests;
- (3) Misrepresent or deceptively represent any material fact concerning the time share plan or time share unit;
- (4) Fail to honor and comply with all provisions of a contract or reservation agreement with the purchaser;
- (5) Include, in any contract or reservation agreement, provisions purporting to waive any right or benefit provided for purchasers pursuant to this chapter;
- (6) Receive from any prospective purchaser any money, property (including but not limited to a credit card), or other valuable consideration prior to signing a contract or reservation agreement for the purchase of a time share plan or unit; or
- (7) Make a sales presentation to a prospective purchaser before delivering, furnishing, or tendering to that prospective purchaser any promised promotional device or other instrument.”

SECTION 7. Section 514E-12, Hawaii Revised Statutes, is amended to read:

**“§514E-12 Civil penalty; suspension or revocation of registrations.** (a) If the director determines, after notice and a hearing, that any person has violated any provision of this chapter or any rule adopted by the director pursuant to this chapter, or that a person has authorized, directed, ordered, or personally participated in any violation of this chapter or any rule adopted by the director pursuant to this chapter, the director may issue a cease and desist order requiring such person to cease and desist from that conduct. The cease and desist order may also require such person to comply with the provisions of this chapter and the director's rules and orders and take affirmative action to correct conditions resulting from that conduct or failure to comply.

(b) If the director determines, after notice and a hearing, that any person has failed to comply with a cease and desist order issued by the director or has concealed, diverted, or disposed of any funds or assets of any person in any manner impairing the rights of purchasers of time share interest, then the director:

- (1) May fine such person a sum of not less than \$500 nor more than \$10,000 for each separate offense. Each date of violation shall constitute a separate offense;
- (2) May issue an order suspending or revoking the registration of such person and the right of such person to offer or sell time share interests. For the first offense, the director shall suspend the registration of such person and the right of such person to offer or sell time share interests for a period of thirty days. For the second offense, the director shall revoke permanently

the registration of such person and the right of such person to offer or sell time share interests."

SECTION 8. Chapter 514E, Hawaii Revised Statutes, is amended by adding to a new section to be appropriately designated to read as follows:

**"§514E- Severability.** If any provision of this chapter or the application thereof to any person or circumstance, is held invalid, the invalidity thereof shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application. To that end, the provisions of this chapter are severable."

SECTION 9. Section 514E-2, Hawaii Revised Statutes, is amended to read as follows:

**"§514E-2 Status of property.** (a) The temporal division of any interest in real property shall not, in and of itself, affect its status as real property.

(b) Whether a time share plan is a time share ownership plan or time share use plan, for purposes of a chapter 467 a time share interest shall constitute "real estate" and the offer or sale thereof shall constitute the offer or sale of an interest in real property."

SECTION 10. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 11. This Act, except for section 9 of this Act, shall take effect upon its approval. Section 9 of this Act shall take effect on January 1, 1982.

(Approved May 30, 1981.)

ACT 82

S.B. NO. 164

A Bill for an Act Relating to Statutory Revision.

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

SECTION 1. Section 6-26, Hawaii Revised Statutes, is amended to read as follows:

**"§6-26 Commission; members, appointment, tenure.** [The governor shall appoint seven persons in accordance with section 26-34, who shall constitute] There shall be a commission to be known as the Pacific War Memorial Commission of Hawaii[.] consisting of seven persons, six of whom shall be appointed by the governor pursuant to section 26-34, and the adjutant general who shall be an ex officio seventh voting member. One of the commissioners shall be appointed and designated as chairman. The commissioners shall hold office for terms of four years, and shall be subject to removal for cause. The members shall serve without pay but shall receive their reasonable traveling and other necessary expenses."

SECTION 2. Section 26-21, Hawaii Revised Statutes, is amended to read as

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 82

follows:

**“§26-21 Department of defense.** 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.

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.

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 Pacific War Memorial Commission of Hawaii is placed within the department of defense for administrative purposes. The functions, duties, and powers, subject to the administrative control of the adjutant general, and the composition of the commission shall be as [heretofore] provided by sections 6-26 to 6-30[, except that the governor shall appoint six of the members, with the adjutant general serving as an ex officio seventh voting member. The incumbent members of the commission shall continue in office in accordance with the terms of their appointment]. The commission may at its discretion accept gifts which are designated for particular purposes. Any staff member appointed by the commission shall be exempt from the requirements of chapters 76 and 77.”

SECTION 3. Section 13-2, Hawaii Revised Statutes, is amended to read as follows:

**“§13-2 Qualifications.** No person shall be eligible for election or appointment to the board of education unless he is a registered voter of the school board district from which he is to be elected or appointed and, where residency in a particular departmental school district is a requirement, a resident of the departmental school district for which seat he is seeking election or appointment. No member of the board shall hold or be a candidate for any other public office under the state or county governments in accordance with Article II, section [[7]] of the Constitution of the State; nor shall a person be eligible for election or appointment to the board of education if that person is also a candidate for 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, or officers of emergency organizations for civilian defense or disaster relief.”

SECTION 4. Section 13D-2, Hawaii Revised Statutes, is amended to read as follows:

**“§13D-2 Qualifications of board members.** No person shall be eligible for election or appointment to the board unless he is: (1) qualified and registered to vote under the provisions of section 13D-3, and (2) where residency on a particular island is a requirement, a resident on the island for which seat he is seeking election or appointment. No member of the board shall hold or be a candidate for any other public office under the state or county governments in accordance with Article II, section [[7]] of the Constitution of the State; nor shall a person be eligible for election or appointment to the board if that person is also a candidate for 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, or officers of emergency organizations for civilian defense or disaster, or disaster relief.”

SECTION 5. Section 26-1, Hawaii Revised Statutes, is amended to read as follows:

**“§26-1 Office of the lieutenant governor.** Except as otherwise provided by law, the lieutenant governor is designated the secretary of State for intergovernmental relations and shall perform the duties and functions heretofore exercised by the secretary of Hawaii. The duties and functions shall include, but not be limited to, supervision of elections, recordation of all legislative and gubernatorial acts, certification of state documents, and maintenance of an official file of rules and regulations promulgated by state departments as provided in chapter 91.

The lieutenant governor, with the approval of the governor, may designate some other officer of the government of the State to authenticate documents on behalf of the lieutenant governor during his temporary absence without the State or during his illness whenever the documents require the signature of the lieutenant governor. The person shall affix his own signature to the document with the words, “for the lieutenant governor” following and the signature shall be deemed to satisfy the requirement of the lieutenant governor’s signature on the document. The designation and approval shall be in writing and shall be filed in the office of the governor and a copy thereof, certified by the governor, shall be filed with the public archives. The person so designated shall serve without additional compensation and the lieutenant governor shall be responsible and liable on his official bond for all acts done by the person so designated in the performance of the duties on behalf of the lieutenant governor.

Nothing in this section shall be construed to authorize the person to exercise and discharge the powers and duties of the office of the governor as provided by the first paragraph of Article [IV,] V, section 4 of the Constitution of the State. The person shall not be authorized to exercise any powers whenever a successor to the lieutenant governor assumes the duties of the lieutenant governor pursuant to [article IV,] Article V, section 4 of the Constitution.”

SECTION 6. Section 26-6, Hawaii Revised Statutes, is amended to read as follows:

**“§26-6 Department of accounting and general services.** The department of accounting and general services shall be headed by a single executive to be known as the comptroller.

The department shall preaudit and conduct after-the-fact audits of the finan-

cial accounts of all state departments to determine the legality of expenditures and the accuracy of accounts; report to the governor and to each regular session of the legislature as to the finances of each department of the State; manage the inventory, equipment, surplus property, insurance, and centralized purchasing programs of the State; establish and manage motor pools; manage the preservation and disposal of all records of the State; undertake the program of centralized engineering services, including operation and maintenance of public buildings, for departments of the State; undertake the functions of the territorial or state surveyor; and establish, analyze, and enforce accounting and internal control systems.

The King Kamehameha [day] celebration commission is placed within the department of accounting and general services for administrative purposes. The functions, duties, and powers, subject to the administrative control of the comptroller, and the composition of the commission shall be as heretofore provided by law.

The functions and authority heretofore exercised by the comptroller, board of commissioners of public archives, the archivist, the disposal committee, and the insurance management, surplus property management, and central purchasing functions of the bureau of the budget and the nonhighway functions of the department of public works as heretofore constituted are transferred to the department of accounting and general services established by this chapter."

SECTION 7. Section 26-9, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The [board of examiners of abstract makers,] acupuncture, cemetery and mortuary board, board of accountants, public accountancy, board of barbers, board of cosmetology, boxing commission, board of chiropractic examiners, [collection agencies advisory board,] 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 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 practicing psychologists, board of detectives and guards, real estate commission, [and] board of veterinary examiners, and speech pathology and audiology are placed within the department of regulatory agencies for administrative purposes."

SECTION 8. Section 76-35, Hawaii Revised Statutes, is amended to read as follows:

"§76-35 Intragovernmental transfers. A transfer is the movement of an employee in the civil service from one position to another position which is: (1) in the same class; (2) in a different class assigned to the same [pay] salary range in the same salary [structure;] schedule or pay schedule; (3) in a different salary [structure] schedule or pay schedule and in a class assigned to a [pay] salary range whose highest [pay] rate is the same as the highest [pay] rate of the [pay] salary range of the class which the employee is transferring from; or, (4) in a different salary [structure] schedule or

pay† schedule and in a class assigned to a [pay] salary range whose highest [pay] rate is less than or exceeds the highest [pay] rate of the class which the employee is transferring from by no more than the dollar difference between the first and second step of the [pay] salary range of the class the employee is transferring from. A transfer both within a department and between two departments may be made without a reduction in pay and with the approval of the department head or heads and the director of personnel services as provided by rule. The term ["pay range"] "salary range" as used herein shall refer to the [pay levels] salary ranges of salary [schedules] structures applicable to employees covered by chapter 77."

SECTION 9. Section 78-18, Hawaii Revised Statutes, is amended to read as follows:

**"§78-18 Limitation on salary of employees and certain officers.** Except as provided in section [78-18.5.] 89C-2, in fixing the compensation of officers and employees in the government service, the appropriate officials shall give due consideration to the limitations prescribed in sections 26-53 and 46-24 and shall fix the salaries of the officers and employees so that such salaries will bear a reasonable relation to the salaries of the department heads and first deputies and first assistants. Anything to the contrary notwithstanding, no subordinate employee, except as provided in section [78-18.5.] 89C-2, shall receive after June 2, 1959, a salary which exceeds the salary paid to his department head or to the first deputy or first assistant to the department head; provided that an employee who is receiving on June 2, 1959, a salary in excess of the salary paid to his department head or to the first deputy or first assistant to the department head shall continue to receive the salary so long as he remains in the same position, or until such time as the salaries of his department head or the first deputy or first assistant are sufficiently increased to authorize adjustments to the employee's salary."

SECTION 10. Chapter 84, Hawaii Revised Statutes, is amended by amending the Preamble to read as follows:

#### **"PREAMBLE**

The purpose of this chapter is to (1) prescribe [standards of conduct] a code of ethics for elected officers and public employees of the State as mandated by the people of the State of Hawaii in the Hawaii Constitution, Article XIV; (2) educate the citizenry with respect to ethics in government; and (3) establish an ethics commission which will administer the codes of ethics adopted by the constitutional convention and by the legislature and render advisory opinions and enforce the provisions of this law so that public confidence in public servants will be preserved."

SECTION 11. Section 84-19, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) Any favorable state action obtained in violation of [any of the standards] the code of ethics for legislators or employees and former employees is voidable in the same manner as voidable contracts as provided for under section 84-16; and the State by the attorney general may pursue all legal and equitable remedies available to it.

<sup>†</sup> The words "schedule or pay" are new but were not underscored.

(b) The State by the attorney general may recover any fee, compensation, gift, or profit received by any person as a result of a violation of [these standards] the code of ethics by a legislator or employee or former legislator or employee. Action to recover under this subsection [(b)] shall be brought within two years of such violation [under this chapter]."

SECTION 12. Section 84-31, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- "(a) The ethics commission shall have the following powers and duties:
- (1) It shall prescribe forms for the disclosures required by Article XIV of the Hawaii Constitution and section 84-17 and the statements and reports required by sections 97-2 and 97-3 and shall establish orderly procedures for implementing the requirements of those provisions.
  - (2) It shall render advisory opinions upon the request of any legislator, employee, or delegate to the constitutional convention, or person formerly holding such office or employment as to whether the facts and circumstances of a particular case constitute or will constitute a violation of the [standards.] code of ethics. It shall also render advisory opinions to persons subject to chapter 97. If no advisory opinion is rendered within thirty days after the request is filed with the commission, it shall be deemed that an advisory opinion was rendered and that the facts and circumstances of that particular case do not constitute a violation of the [standards.] code of ethics. The opinion rendered or deemed rendered, until amended or revoked, shall be binding on the commission in any subsequent charges concerning the legislator, employee, or delegate to the constitutional convention, or person formerly holding such office or employment, or person subject to chapter 97 who sought the opinion and acted in reliance on it in good faith, unless material facts were omitted or misstated by such persons in the request for an advisory opinion.
  - (3) It shall initiate, receive, and consider charges concerning alleged violation of this chapter, initiate or make investigation, and hold hearings.
  - (4) It may subpoena witnesses, administer oaths, and take testimony relating to matters before the commission and require the production for examination of any books or papers relative to any matter under investigation or in question before the commission. Before the commission shall exercise any of the powers authorized herein with respect to any investigation or hearings it shall by formal resolution, supported by a vote of three or more members of the commission, define the nature and scope of its inquiry.
  - (5) It may, from time to time make, amend, and repeal such rules and regulations, not inconsistent with this chapter as in the judgment of the commission seem appropriate for the carrying out of this chapter and for the efficient administration thereof, including every matter or thing required to be done or which may be done with the approval or consent or by order or under the direction or supervision of or as prescribed by the commission. The rules and regulations, when adopted as provided in chapter 91, shall have the force and effect of law.

- (6) It shall have jurisdiction for purposes of investigation and taking appropriate action on alleged violations of this chapter in all proceedings commenced within one year after termination of state employment by a legislator or employee. Nothing herein shall bar proceedings against a person who by fraud or other device, prevents discovery of a violation of this chapter. A proceeding shall be deemed commenced by the signing of a charge by three or more members of the commission.
- (7) It shall distribute its publications without cost to the public and shall initiate and maintain programs with the purpose of educating the citizenry and all legislators, delegates to the constitutional convention, and employees on matters of ethics in government employment.
- (8) It shall administer any code of ethics adopted by a state constitutional convention, subject to the procedural requirements of this part and any rules adopted thereunder.
- (9) It shall perform the duties and fulfill the functions assigned to it by chapter 97, relating to registration of lobbyists."

SECTION 13. Section 84-33, Hawaii Revised Statutes, is amended to read as follows:

**"§84-33 Disciplinary action for violation.** In addition to any other powers [of] the civil service commission or other authority may have to discipline employees, the civil service commission or authority may reprimand, put on probation, demote, suspend, or discharge an employee found to have violated the [standards of this chapter.] code of ethics."

SECTION 14. Section 84-37, Hawaii Revised Statutes, is amended to read as follows:

**"§84-37 Concurrent jurisdiction.** Notwithstanding any provision contained herein, pursuant to article III, section [13] 12 of the Constitution of the State of Hawaii each house of the legislature may prescribe further rules of conduct covering its members and may investigate and discipline a member for any violation of [this chapter or] its rules[.] or the code of ethics.

SECTION 15. Section 87-1, Hawaii Revised Statutes, is amended by amending the definition of "employee" to read as follows:

"(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 his 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, [fire fighters,] fire-fighters, or bandsmen pension system of the State or county; and
  - (x) A salaried and full-time member of a board or commission appointed by the governor;
- (B) But excluding:
- (i) A designated beneficiary of a retired member of the employees retirement system, the county pension system, or the police, [fire fighters,] 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 than three months and whose employment is less than one-half of a full-time equivalent position;
  - (iv) A non-salaried and non-full time member of a board, commission, or agency appointed by the governor [,or mayor, or chairman of the State or county, respectively,] 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 16.** Section 128-11, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- "(a) There shall be available for allotment by the governor under this chapter:
- (1) Any moneys appropriated for the purposes of this chapter, or reappropriated pursuant to subsection (b) and any unexpended moneys appropriated for disaster relief or administration thereof by [Act 320 of the Session Laws of Hawaii 1949, Act 3 of the Special Session Laws of Hawaii 1950, or] any [other Act,] act, but only within the scope and purposes of the appropriations so made by the legislature[, provided that in the event of a civil defense emergency period the appropriation made by Act 3 of the Special Session Laws of Hawaii 1950 may be expended in preparation for an attack as well as in the event of an attack];
  - (2) Any unexpended moneys appropriated for the purposes of Act 21 of the Special Session Laws of Hawaii 1949, relating to making available necessary commodities in an emergency[, or reappropriated pursuant to the Act];
  - (3) Contributions, as provided by section 128-10; and
  - (4) The governor's contingent fund."

SECTION 17. Section 171-19, Hawaii Revised Statutes, is amended to read as follows:

**"§171-19 Special land and development fund.** (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, 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 improvements thereon, not to exceed \$100,000 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 and regulations 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 [the provisions of] section 171-60.

(b) Notwithstanding the above provisions, but subject to the restrictions contained in section 5(f) of the Admission Act, whenever the board sells remnants to abutting owners, the proceeds therefrom including interest on deferred payments, shall be deposited into the general fund; provided[,] that such proceeds shall be set apart to the appropriate fund where mandatory federal requirements affecting federal funds so require.

(c) Notwithstanding the above limitations on use of the proceeds of sale, where the board sells public lands including the buildings thereon once used but no longer necessary for school purposes at the recommendation and request of the board of education, all net proceeds derived from the sales [are hereby appropriated to the county wherein the sales occur] shall be used for the acquisition of land or for the erection of buildings for school purposes to the extent of an approved building plan in the departmental school district wherein the sales occur. In the absence of any school building program in the district or in the event of any surplus remaining after the completion of buildings constructed pursuant to the approved plan then the pro-

ceeds or surplus shall be used in other departmental school districts in the county wherein the sales occur.

(d) When use of the fund is authorized by the legislature for the development of public lands for a particular project, to be disposed of by sale, lease, license, or permit, the board may pay from the fund the costs of the development, including the costs of surveys, construction of roads, water lines, [and] sewer lines, and such other improvements as may be necessary for the development of the lands; provided[,] that the project shall meet with the zoning and subdivision requirements of the appropriate county and city and county government in which the lands are located, except that plans and specifications for recreational projects, including access roads therefor, shall not be required to meet with such approval; and provided further[,] that no such development of public lands for disposal by sale, lease, license, or permit shall be made unless appropriate roads, water lines, and other improvements are installed which will make the land usable for the purpose for which it is being disposed at the time of disposition."

SECTION 18. Section 286-47, Hawaii Revised Statutes, is amended to read as follows:

**"§286-47 Certificate of registration; certificate of ownership; containers.** Upon the registration of a vehicle, the director of finance shall issue a certificate of registration to the owner and a certificate of ownership to the legal owner, or to a dealer who shall be a person licensed to sell new motor vehicles under chapter 437 which certificates shall meet the following requirements;

- (1) Both the certificate of registration and the certificate of ownership shall contain upon the face thereof, the date issued, the registration number assigned to the owner and to the vehicle, the name and address of the owner and legal owner in typewriting, also such description of the registered vehicle as may be determined by the director of finance. If any of the information subsequently proves to be a typographical error, the dealer, as defined in section 437-1, shall notify the director of finance of the error by a written certificate stating the reasons for and nature of the error and the correction which should be made in the certificate of registration and the certificate of ownership. Upon receipt of the dealer's certificate by the director of finance, the certificate of registration and the certificate of ownership shall be corrected accordingly so long as the correction does not constitute a change of the vehicle originally registered. A fee of \$1 shall be paid to the director of finance for each instance of correction of the registration records.
- (2) In addition to the requirements provided for in paragraph (1) above, the face of the certificate of ownership shall contain endorsement lines for the transfer of title or interest of the registered owner and legal owner, and the odometer reading of the vehicle on the date of transfer. The reverse side of the certificate of ownership shall contain the application for registration by the transferee.
- (3) (A) Whenever a new vehicle is first registered hereunder, the director of finance shall issue a suitable container with the certificate of registration issued for the vehicle. Every owner upon receipt of a certifi-

cate of registration shall place the same in the container which must be kept within the vehicle for which it is registered and be presented at the request of a police officer, or in the event the vehicle is a motorcycle, shall carry such certificate in a convenient receptacle attached to the vehicle and which shall be presented at the request of a police officer.

- (B) This shall not apply to state or county vehicles readily identified by the license plates and markings on sides of [said] such vehicles.
- (C) The container shall be furnished by the director of finance, for which he shall charge a sum not to exceed 50 cents. This requirement to carry the certificate of registration with the vehicle shall not apply when such certificate is removed from the vehicle for the purpose of application for renewal, [or] transfer of registration, or to record a change in the registration."

SECTION 19. Section 286-56.5, Hawaii Revised Statutes, is amended by amending its title to read as follows:

**"§286-56.5 Special license plates for consul or official representative of  
[[ ]]foreign or[] territorial government."**

SECTION 20. Section 290-11, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Towing companies engaged by the owner, occupant, or person in charge of the property shall charge no more than \$25 a tow, \$37.50 for a tow using a dolly, and \$2 for each twenty-four hour period of storage or fraction thereof. Such vehicle may be disposed of in accordance with this chapter for the disposition of abandoned vehicles. The towing company shall determine the name of the legal owner and the registered owner of the vehicle from the department of transportation or the motor vehicle licensing division[, and may use section 286-172(a) (3) for this purpose]. The legal owner and the registered owner shall be notified in writing by registered or certified mail of the location of the vehicle within a reasonable period not to exceed fifteen days [of] following the tow. Where the owners have not been so notified then the owner may recover his car from the towing company without paying tow or storage fees. A mail receipt signed by the registered owner is *prima facie* evidence of notification. A person who has been charged in excess of the charges permitted under this section may sue for damages sustained, and, if the judgment is for the plaintiff, the court shall award the plaintiff a sum not to exceed the amount of [said] such damages and reasonable attorney's fees together with the cost of suit."

SECTION 21. Section 305A-4, Hawaii Revised Statutes, is amended to read as follows:

**"§305A-4 Vocational education coordinating advisory council.** There is established a vocational education coordinating advisory council which shall serve in an advisory capacity to the board of regents. The council shall consist of eleven members, nine appointed and two ex officio voting members. Of the nine appointed members, three shall be appointed from the board of regents of the University of Hawaii by the chairman of that body, three shall be appointed from the board of education by the chairman of that body, and three shall be appointed from the state

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commission on manpower and full employment by the chairman of that body. Of the three members appointed from the commission on manpower and full employment, one member shall represent management, one member shall represent labor, and the third shall represent the public. Of the two ex officio members one shall be the president of the University of Hawaii and the other shall be the superintendent of education.

Of the three members first appointed by each appointing authority, other than the chairman of the board of education, one shall be appointed for two years, one shall be appointed for three years, and one shall be appointed for four years. In the case of the members appointed from the board of education, the terms of such members shall be for their remaining terms as members of the board of education. Upon the expiration of the terms of the first members, their successors shall serve for a term of four years. Vacancies shall be filled by the appropriate appointing authority for the unexpired term.

The council shall elect a chairman and such other officers as it deems necessary. Section [92-11] 92-15 shall apply. The members of the council shall serve without pay but shall be entitled to their traveling expenses within the State when attending meetings of the council or when actually engaged in business relating to the work of the council."

SECTION 22. Section 323D-2, Hawaii Revised Statutes, is amended to read as follows:

### **"§323D-2 Definitions.** As used in this chapter:

- (1) "Annual implementation plan" means the annual program plan pursuant to section 323D-16.
- (2) "Secretary" means the secretary of the United States Department of Health[, Education, and Welfare,] and Human Services, or the secretary of the federal agency that is the successor to the United States Department of Health[, Education, and Welfare,] and Human Services.
- (3) "State agency" means the state health planning and development agency established in section 323D-11.
- (4) "State health plan" means the comprehensive, coordinated plan for the development of health services in the State prepared by the statewide council.
- [(5)] "State medical facilities plan" means the comprehensive medical facilities plan pursuant to section 323D-31.
- (6) [(5)] "Statewide council" means the statewide health coordinating council established in section 323D-13.
- [(7)] [(6)] "Subarea" [shall mean] means one of the geographic subareas designated by the state agency pursuant to section [323D-21].
- [(8)] [(7)] "Subarea council" means a subarea health planning council established pursuant to section [323D-21]."

SECTION 23. Section 346-122, Hawaii Revised Statutes, is amended to read as follows:

**"[§346-122] Licensure of independent group residences.** The department shall license independent group residences in accordance with federal requirements

and standards established to ensure the quality of supportive services provided in independent group residences and that residents of such residences have a suitable living environment.

Licenses shall only be issued to public or private nonprofit organizations qualified to prepare and submit planned programs of supportive services suitable to the particular residence which the organization's members wish to establish.

Standards for licensure shall include minimal qualifications, quantity, and working hours of resident assistants or other persons providing continual supportive services as well as procedures and methods whereby the organization seeking licensure plans to interface its activities into the section 8 housing assistance payments program of the United States Department of Housing and Urban Development. The "section 8 housing assistance payments program" means the program under section 8 of the United States Housing Act of [[1937]], (chapter [[896]], 50 Stat. 888), as amended.

Nothing in this part shall be construed to include or affect facilities or homes licensed by the department, the department of health, or any other state agency which provides minimal assistance and supervision in living activities to adults."

SECTION 24. Section 362-83, Hawaii Revised Statutes, is repealed.

SECTION 25. Section 416-78, Hawaii Revised Statutes, is amended by amending its title to read as follows:

**"§416-78 Consent of stockholders [] or members[] in lieu of meeting."**

SECTION 26. Section 425-40, Hawaii Revised Statutes, is amended to read as follows:

**"§425-40 Effect of retirement, death, or adjudication of incompetency of a general partner.** The retirement or death of a general partner, or the order of a court of competent jurisdiction adjudicating a general partner incompetent to manage his person or his property dissolves the partnership, unless the business is continued by the remaining general partners under a right to do so stated in the certificate, or with the consent of all members. However, the retirement, death, or [insanity of] the order of a court of competent jurisdiction adjudicating the sole remaining general partner incompetent to manage such partner's person or property dissolves the partnership."

SECTION 27. Section 448-6, Hawaii Revised Statutes, is amended by amending the title to read:

**"§448-6 Officers, meetings[], quorum]."**

SECTION 28. Section 452-3, Hawaii Revised Statutes, is amended by amending the title to read:

**"§452-3 Massage establishments to be [registered.] licensed."**

SECTION 29. Section 468K-1, Hawaii Revised Statutes, is amended by amending the definition of "sales representative" to read as follows:

**"(4) "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]] travel agency."

SECTION 30. Section 468K-12, Hawaii Revised Statutes, is amended by

amending its title to read:

**"[§468K-12] Disciplinary action against [ ]registrant[ ]."**

SECTION 31. Section 531-29, Hawaii Revised Statutes, is amended by amending its title to read:

**"§531-29 Confirmation of sales of real property by personal representatives[.] or guardians."**

SECTION 32. Section 560:3-301, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Informal probate and appointment proceedings shall be available only if the estate of the decedent subject to probate proceedings in this State has a gross value of [\$30,000] \$40,000 or less."

SECTION 33. Section 560:3-308, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) In an interstate informal appointment proceeding, the registrar shall determine whether:

- (1) The application is complete;
- (2) The value of the estate is [\$30,000] \$40,000 or less;
- (3) The applicant has made oath or affirmation that the statements contained in the application are accurate and complete to the best of his knowledge and belief;
- (4) The applicant appears from the application to be an interested person as defined in section 560:1-201(24);
- (5) Any requested statutory allowances or exempt property are proper;
- (6) The person nominated as personal representative has priority and is qualified to serve as such;
- (7) On the basis of the statements in the application, venue is proper;
- (8) Notice required by sections 560:3-204 and 560:3-301 has been given; and
- (9) It appears from the application that the time limit contained in section 560:3-108 either has not expired or, in the case of ancillary proceedings, is not applicable."

SECTION 34. Section 560:3-502, Hawaii Revised Statutes, is amended to read as follows:

**"§560:3-502 Supervised administration; when required; petition; order.** A petition for supervised administration shall be filed for any estate subject to probate proceedings in this State if the gross value thereof is over [\$30,000;] \$40,000; provided [however,] if probate proceedings were commenced informally and the file is transferred pursuant to section 560:3-706(b), no new petition need be filed. A petition for supervised administration may be filed by any interested person or by a personal representative at any time or the prayer for supervised administration may be joined with a petition in a formal testacy or appointment proceeding, but if the estate qualifies for informal proceedings, the court may deny a petition for supervised administration filed by someone other than the personal representative for good cause. If the testacy of the decedent and the priority and qualification of any personal representative have not been adjudicated previously, the petition for supervised adminis-

tration shall include the matters required of a petition in a formal testacy proceeding and the notice requirements and procedures applicable to a formal testacy proceeding apply. If not previously adjudicated, the court shall adjudicate the testacy of the decedent and questions relating to the priority and qualifications of the personal representative in any case involving a request for supervised administration even though the request for supervised administration may be denied. After notice to the persons enumerated in section 560:3-403 in the manner provided in section 560:1-401 and proof that a copy of the petition has been delivered to all such persons in the manner provided in section 560:1-401, the court shall order supervised administration of a decedent's estate:

- (1) If the gross value of the estate subject to probate proceedings in this State is over [\$30,000;] \$40,000;
- (2) If the personal representative requests it;
- (3) If the decedent's will directs supervised administration, unless the court finds that circumstances bearing on the need for supervised administration have changed since the execution of the will and that there is no necessity for supervised administration;
- (4) If the decedent's will directs unsupervised administration, only upon a finding that it is necessary for protection of persons interested in the estate; or
- (5) In other cases if the court finds that supervised administration is necessary under the circumstances."

SECTION 35. Section 560:3-503, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) If a will has been previously probated in informal proceedings, the effect of the filing of a petition for supervised administration is as provided for formal testacy proceedings by section 560:3-401. If supervised administration is commenced on account of the discovery of additional assets so that the decedent's gross estate in this State is in excess of [\$30,000,] \$40,000, any distributions made in good faith by the personal representative shall not be disturbed, but the remaining estate of the decedent shall be administered and distributed pursuant to court order, and the determinations of testacy status and successors of the decedent made by the registrar shall not be binding on the court with respect to such remaining estate of the decedent."

SECTION 36. Section 560:3-706, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) If the probate proceedings were commenced informally but the inventory [and/or] or any appraisal, or both, reveal, or the personal representative otherwise learns prior to or after the close of the informal proceedings, that the gross value of the estate is in excess of [\$30,000,] \$40,000, the personal representative shall forthwith:

- (1) Commence a supervised proceeding by instructing the registrar to transfer the file to the court; and
- (2) Notify all persons enumerated in section 560:3-403 in the manner provided in section 560:1-401 of such transfer and the reason therefor; pro-

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vided[, however,] no newspaper publication of the transfer shall be required."

SECTION 37. Section 709-906, Hawaii Revised Statutes, is amended by amending subsection (l) to read as follows:

"(l) It shall be unlawful for any person, singly or in concert, to physically abuse his or her spouse, or to refuse compliance with the lawful order of a police officer under subsection (3). The police, in investigating any complaint of spouse abuse may, upon request, transport [such person] the abused person to a hospital or safe shelter."

SECTION 38. This Act shall be amended to conform to all other acts passed by the legislature during this Regular Session of 1981, whether enacted before or after the effective date of this Act, unless such other acts specifically provide otherwise.

SECTION 39. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 40. This Act shall take effect upon its approval.

(Approved May 30, 1981.)

## ACT 83

S.B. NO. 271

A Bill for an Act Relating to Hotels.

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

SECTION 1. Section 486K-1, Hawaii Revised Statutes, is amended by adding a new definition to read as follows:

"(5) "Security box" means any metal or alloy box, used in a hotel for the safe-keeping of any valuables, which may be securely locked with a locking mechanism that meets or exceeds Underwriter Laboratories standards and which shall be secured in a manner which precludes its removal from the room."

SECTION 2. Section 486K-4, Hawaii Revised Statutes, is amended to read as follows:

**“§486K-4 Safe or security box for valuables; limitation of liability for deposited valuables.** (a) If the keeper or any hotel provides a safe or vault in its office thereof, for the safekeeping of any valuables belonging to the guests of the hotel, and prominently posts a notice in the room or rooms occupied by the guest stating that a safe or vault is provided in which valuables may be deposited and if any guest neglects to deliver valuables to the person in charge of the safe or vault, the keeper of the hotel shall not be liable in any sum for any loss of valuables sustained by the guest by theft or otherwise unless the loss is due to the negligence or fault of the keeper of

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\*In Section 24, the repealed (bracketed) material was deleted pursuant to HRS §23G-16.5.

the hotel. If the guest delivers valuables to the person in charge of the office for deposit in the safe or vault, the keeper shall not be liable for any loss thereof sustained by the guest, by theft or otherwise, in any sum exceeding \$500; provided that the keeper's liability is limited to \$500 only if: (1) the keeper gives a receipt for the valuables on a form which states, in type large enough to be clearly noticeable, that the keeper is not liable for any loss exceeding \$500 except by special agreement in writing in which the keeper agrees to accept liability for losses in excess of \$500; and (2) the loss is not due to the negligence or fault of the keeper of the hotel. The keeper may accept liability for losses in excess of \$500 by special agreement in writing between a guest and the keeper or his duly authorized representative.

(b) If the keeper of a hotel provides a security box in the room of any guest and prominently posts a notice stating that a security box is provided in which valuables may be deposited and explains the liability for losses therefrom, the keeper of the hotel shall not be liable in any sum for any loss sustained by the guest unless the loss is due to the negligence or fault of the keeper of the hotel."

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

**SECTION 4.** This Act shall take effect 60 days after its approval.

(Approved May 30, 1981.)

## ACT 84

S.B. NO. 399

A Bill for an Act Relating to Health Care Facilities Identification and Regulations.

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

**SECTION 1.** Section 321-11, Hawaii Revised Statutes, is amended to read as follows:

**"§321-11 Subjects of health regulations, generally.** The department of health may make such regulations 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;

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

- (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 hospital, 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, care homes, special treatment facilities and programs, home health agencies, but excluding youth shelter facilities 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, Hawaii Revised Statutes, under "child caring institution";
- (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 manufactures 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, distri-

- buted, sold, offered for sale, or offered for human consumption or use;
- (19) Food, 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 the 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
  - (25) Ambulances and ambulance equipment.

The department may require such certificates, permits or licenses as it may deem necessary adequately to regulate the conditions or businesses referred to in this section."

**SECTION 2.** Section 346-16(b), Hawaii Revised Statutes is amended to read as follows:

"(b) None of the facilities defined in subsection (a) shall be considered a special treatment facility in the sense of section 321-11(10) 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."

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

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

(Approved May 30, 1981.)

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

Resources.

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

SECTION 1. Title 12, Hawaii Revised Statutes, is amended by amending subtitle 4 to read:

**"SUBTITLE 4. FORESTRY AND WILDLIFE; RECREATION AREAS; FIRE PROTECTION"**

SECTION 2. Chapter 183, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"§183- Definitions.** As used in this chapter, unless the context indicates otherwise:

- (1) "Board" means the board of land and natural resources.
- (2) "Department" means the department of land and natural resources.
- (3) "Game" means birds and mammals designated, by law or by rule, for hunting.
- (4) "Predators" mean animals destructive of game or wildlife by nature of their predatory habits, including mongooses, cats, dogs, and rats.
- (5) "Wildlife" means any member of any non-domesticated species of the animal kingdom, whether reared in captivity or not, and includes any part, product, egg, or offspring thereof."

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

**"§183-1 Duties in general.** The department shall:

- (1) Gather, compile, tabulate, and publish from time to time, information and statistics concerning the area, location, character, and increase and decrease of forests and wildlife in the State;
- (2) Gather and compile information as necessary concerning trees, plants, shrubs, and wildlife recommended for planting or release in different localities, including the care and propagation of trees, shrubs, and wildlife for protective, productive, and aesthetic purposes and other useful information, which the department in its discretion may deem proper;
- (3) Have the care, custody, control, and regulation of all lands which may be set apart as forest reservations, public hunting areas, and wildlife sanctuaries under the terms of this title;
- (4) Devise ways and means of protecting, extending, increasing, and utilizing the forests and forest reserves, more particularly for protecting and developing the springs, streams, and sources of water supply to increase and make such water supply available for use;
- (5) Devise and carry into operation, ways and means by which forests and forest reservations can, with due regard to the main objects in title 12, be made self-supporting in whole or in part;
- (6) Establish, maintain, and conduct at such places within the State, wildlife propagating stations;
- (7) Pursuant to sections 187-1.1 to 187-1.3, import wildlife for propagating purposes;
- (8) Pursuant to sections 187-13 and 187-14, destroy predators deemed

- harmful to wildlife and game;
- (9) Formulate and from time to time recommend to the governor and legislature such additional legislation as it deems necessary or desirable for better implementing the objectives of title 12;
- (10) Make and publish, at the end of each year, a report of the expenditures and proceedings of the department and of the results achieved by the department, together with such other matters as are germane to the subject matter under title 12 and which the department may deem proper."

SECTION 4. Section 183-2, Hawaii Revised Statutes, is amended to read:

**"§183-2 Rules.** Subject to chapter 91, the department shall make, amend, and repeal rules for and concerning the preservation, protection, regulation, extension, and utilization of forest reserves, wildlife sanctuaries, game management areas, and public hunting areas designated by the department. The department may also make, amend, and repeal rules for the purpose of protecting, conserving, propagating, and harvesting introduced and transplanted wildlife and game. The rules may include size limits, bag limits, open and closed seasons, specifications of hunting gear which may be used or possessed, and the conditions of entry into public hunting areas, game management areas, and wildlife sanctuaries. The rules may vary from county to county and may specify certain days of the week or certain hours of the day in designating open seasons.

All rules made as aforesaid, shall have the force and effect of law."

SECTION 5. Section 183-3, Hawaii Revised Statutes, is amended to read:

**"§183-3 Administrator.** The board shall:

- (1) Appoint an administrator of forestry and wildlife, hereinafter called "administrator", who shall have charge, direction, and control (subject to the direction and control of the board) of all matters relating to forestry and wildlife management under title 12 and such other matters as the board may direct. The administrator shall be trained and educated in natural resource management;
- (2) Appoint and remove foresters and wildlife biologists and such other persons as the board may employ."

SECTION 6. Section 183-18, Hawaii Revised Statutes, is amended to read:

**"§183-18 Penalty.** Any person who violates section 183-17, upon conviction thereof, is guilty of a misdemeanor and shall be fined not more than \$1,000 or imprisoned not more than one year, or both."

SECTION 7. Section 183-19, Hawaii Revised Statutes, is amended to read:

**"§183-19 Exclusion of stock from forest reservations; notice.** When branded wild cattle are found on any forest land in the State, which land is duly set apart and established as a forest reservation, 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, whether from privately owned lands or public lands, may remove, shoot, or destroy the cattle without compensation to the owner, after thirty days' public notice, and three insertions of the intended action has been

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given by publication in a newspaper of general circulation in the county where the cattle are found."

SECTION 8. Section 183-20, Hawaii Revised Statutes, is amended to read:

**"§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 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 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 the owners are unknown or cannot be found, cause 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 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 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 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 9. Section 183-42, Hawaii Revised States, is amended to read:

**"§183-42 Strip mining; prior approval of license or permit.** No original permit or license for strip mining on land within the forest reserve boundaries shall be issued by any officer or agency of the State without the prior approval and concurrence of the department. In determining whether to grant or withhold such approval, the department shall be guided by the standards set forth in section 183-41."

SECTION 10. Title 12, Hawaii Revised Statutes, is amended by amending subtitle 5 to read:

### **"SUBTITLE 5. AQUATIC RESOURCES AND WILDLIFE"**

SECTION 11. The heading of Chapter 187, Hawaii Revised Statutes, is amended to read:

**"CHAPTER 187  
GENERAL PROVISIONS RELATING TO  
AQUATIC RESOURCES AND WILDLIFE"**

SECTION 12. Chapter 187, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"§187- Definitions.** As used in this subtitle, unless the context indicates otherwise:

- (1) "Aquaculture" means the farming or ranching of any plant or animal species in a controlled salt, brackish, or fresh water environment; provided that such farm or ranch is on or directly adjacent to land.
- (2) "Aquatic life" means any type or species of mammal, fish, amphibian, reptile, mollusk, crustacean, arthropod, invertebrate, coral, or other animals that inhabit the freshwater or marine environment, and includes any part, product, egg, or offspring thereof; or freshwater or marine plants, including seeds, roots, and other parts thereof.
- (3) "Board" means the board of land and natural resources.
- (4) "Commercial purpose" means the taking of marine life for profit or gain or as a means of livelihood, provided the marine life is taken in the waters of the State or sold or offered for sale anywhere in the State.
- (5) "Commercial marine dealer" means any person who sells marine life purchased directly from a commercial marine licensee, or any commercial marine licensee who sells marine life at retail.
- (6) "Commercial marine license" means a license issued to take marine life within the waters of the State for commercial purpose.
- (7) "Commercial marine licensee" means a person who has been issued a commercial marine license pursuant to section 189-2.
- (8) "Department" means the department of land and natural resources.
- (9) "Game" means birds and mammals designated, by law or by rule, for hunting.
- (10) "Marine life" means any type or species of salt-water fish, shellfish, mollusks, crustaceans, coral, or other marine animals, including any part, product, egg, or offspring thereof; or seaweeds or other marine plants, including any part, product, seed, or root thereof.
- (11) "Predators" means animals destructive of game by nature of their predatory habits, including mongooses, cats, dogs, and rats.
- (12) "Qualified aquaculturist" means a person, or association of persons, actively engaged in aquaculture farming, aquaculture produce processing, or aquaculture product development activities.
- (13) "Taking" means to take, fish, trap, hunt, net, spear, harvest, pick, or withdraw marine life from the waters.
- (14) "Wildlife" means any member of any non-domesticated species of the animal kingdom, whether reared in captivity or not, and includes any part, product, egg, or offspring thereof, except aquatic life as defined in paragraph (2)."

SECTION 13. Section 187-1, Hawaii Revised Statutes, is amended to read:

**"§187-1 Powers and duties of department.** The department of land and natural resources shall:

- (1) Enforce all laws relating to the protecting, taking, killing, propagating, or increasing the aquatic life within the State and the waters subject to its jurisdiction;
- (2) Establish, maintain, and conduct, at such place or places within the State as the department shall select, with the approval of the governor, aquatic life propagating station or stations;
- (3) Subject to section 187-1.2, import aquatic life for the purpose of propagating and disseminating the same in the State and the waters thereof;
- (4) Distribute, free of charge, at such points as the department shall deem to be in the public interest, aquatic life as the department deems best, for the purpose of increasing the food supply of the State; provided that when, in the discretion of the department, the public interest will not be materially interfered with by so doing, the department may propagate and furnish aquatic life to private parties, upon such reasonable terms, conditions, and prices as the department may determine.
- (5) Ascertain, compile, and disseminate, free of charge, information and advice as to the best methods of protecting, propagating, and distributing aquatic life in the State and its waters, with a view of increasing the food supply and reducing the cost of the same to consumers;

in addition to those powers and duties provided in section 183-1 relating to wildlife."

SECTION 14. Section 187-1.1, Hawaii Revised Statutes, is amended to read:

**"§187-1.1 Animal species advisory commission.** (a) There is established within the department of land and natural resources an animal species advisory commission which may serve in an advisory capacity to the board of land and natural resources. The commission shall consist of thirteen members to be appointed by the governor in the manner provided in section 26-34. The chairperson of each aquatic life and wildlife advisory committee established pursuant to this chapter and the chiefs of the divisions of forestry and wildlife, conservation and resources enforcement, and aquatic resources shall serve as members of the commission. Six of the members shall be scientists in the fields of botany, mammalogy, ichthyology, entomology, ornithology, and invertebrate zoology. The commission shall select its own chairperson.

(b) The animal species advisory commission may advise the board on every proposal for the deliberate introduction of a species of animal by the department into any habitat within the State, whether the introduction proposed is from without the State into the State or from one area in the State into another area in the State.

(c) The animal species advisory commission may also advise the board of any matter affecting fishing or hunting, and aquatic life and wildlife conservation, including proposed rules. The commission may hear such persons and acquire such information as it desires and shall communicate its findings and recommendations to the board."

SECTION 15. Section 187-1.2, Hawaii Revised Statutes, is amended to read:

**"§187-1.2 Introduction of species of animals.** (a) No species of animal shall be deliberately introduced by the department under the provisions of chapter 187 into any habitat within the State, whether the introduction is from without the State into the State or from one area in the State into another area in the State unless the introduction is recommended by the forestry and wildlife division and the aquatic resources division and authorized by rules of the department of land and natural resources, pursuant to chapter 91.

(b) The forestry and wildlife division and the aquatic resources division in determining whether to recommend the deliberate introduction of a species of animal shall make the following findings:

- (1) The factors which limit the distribution and abundance of the species in its native habitat have been studied and its probable dispersal pattern appraised;
- (2) Whether in the area where the species is proposed to be introduced there is or had been stock of a desirable, ecologically comparable indigenous species which can be increased or rehabilitated by reintroduction or by encouraging extension of its range;
- (3) Whether the species proposed to be introduced would threaten the existence and stability of any indigenous species as predator; competitor for food, cover, or breeding sites; or in any other way arising from its characteristics and ecological requirements;
- (4) The availability of socially acceptable methods of eliminating the species or keeping it under control in the area where it is proposed to be introduced and in adjoining areas;
- (5) The extent to which the species will enhance the economic and aesthetic values of the area where it is proposed to be introduced;
- (6) That the individuals to be introduced are free of communicable diseases and parasites and that there is no reason to believe that any communicable disease or parasite constitutes an important factor in the control of population; and
- (7) That there is no foreseeable risk of conflict on account of the introduction with land use policies in the area where a species is proposed to be introduced or in adjoining areas to which the species might spread.

(c) Before any species of animal is deliberately introduced, under the provisions of this chapter, into a habitat, the suitability of the introduction shall be tested if there is available an experimental area which can be fully controlled with a habitat typical of the area where the species is proposed to be introduced.

(d) When a species of animal is deliberately introduced into a habitat under the provisions of this chapter and until the species becomes established there on a stable basis, the forestry and wildlife division and the aquatic resources division shall conduct studies of the introduced species in its new habitat, including studies of its rate of spread and impact on the habitat.

(e) Any person who violates this section or any rule promulgated pursuant to this section shall be subject to the penalties provided by section 187-20.

(f) The term "indigenous", as used in this section, includes plant and animal life (including fish and fowl), and organisms produced, growing, or living naturally in the various islands of Hawaii without having been brought here by man."

SECTION 16. Section 187-1.3, Hawaii Revised Statutes, is amended to read:

**“§187-1.3 Aquatic life and wildlife advisory committees.** (a) There is established in each of the counties of the State, an aquatic life and wildlife advisory committee. Each committee shall be composed of members of the board of land and natural resources representing the county, who shall serve ex officio and shall be nonvoting members, and five members appointed by the governor in accordance with section 26-34, who shall be knowledgeable in the fishing, hunting, and conservation of aquatic life and wildlife. The members shall serve for four-year terms. Each committee shall select its own chairperson from its voting members, and three voting members shall constitute a quorum. Members of the committees shall receive no compensation but shall be reimbursed by the board of land and natural resources for all necessary expenses, including stenographic services.

(b) A committee shall meet at the call of its chairperson or of any three of its members for the consideration of any matter affecting fishing or hunting and aquatic life and wildlife conservation within the county, including proposed rules and the enforcement thereof. Each committee may hear such persons and acquire such information as it desires and shall communicate its findings and recommendations to the divisions of conservation and resources enforcement , aquatic resources, and forestry and wildlife.”

SECTION 17. Section 187-2, Hawaii Revised Statutes, is amended to read:

**“§187-2 Rules.** Subject to chapter 91, the department of land and natural resources shall make, amend, and repeal rules for and concerning the protection and propagation of introduced and transplanted aquatic life, or the conservation of the natural supply of aquatic life in any area where, in the judgment of the department, such supply has been or may soon be seriously depleted; the rules may include the following: size limits, bag limits, open and close seasons, specifications of fishing or taking gear which may be used or possessed, prescribe and limit the kind and amount of bait that may be used in taking aquatic life, and the conditions for entry into areas for taking aquatic life. The rules may vary from one county to another and may specify certain days of the week or certain hours of the day in designating open seasons.

Any person who violates any of the rules adopted pursuant to this section shall be guilty of a petty misdemeanor and upon conviction thereof shall be punished as provided in section 188-70.

All rules made as aforesaid, shall have the force and effect of law.”

SECTION 18. Section 187-3, Hawaii Revised Statutes, is repealed.

SECTION 19. Section 187-4, Hawaii Revised Statutes, is amended to read:

**“§187-4 Permits for taking aquatic life or wildlife for scientific, educational, or propagation purposes.** Notwithstanding the provisions of any other law, the department of land and natural resources may take, for scientific, educational, or propagation purposes aquatic life or wildlife except those species which are threatened or endangered.

The department may issue permits to any person subject to such restrictions as the department deems desirable, to take, in any part of the State, for scientific, educational, and propagation purposes aquatic life and wildlife, the taking of which is

otherwise prohibited by law except those species which are threatened or endangered. 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.

Anything taken under the authority of the permit shall be accompanied by the permit while being transported, and shall be exempt from seizure while being transported, or while in possession, in accordance with the permit."

SECTION 20. Section 187-7, Hawaii Revised Statutes, is amended to read:

**"§187-7 Federal aid in fish and wildlife restoration.** The State hereby assents to the provisions of the Pittman-Robertson Federal Aid in Wildlife Restoration Act (50 Stat. 917, 16 U.S.C. 669) as amended, and the Dingell-Johnson Federal Aid in Fish Restoration Act (64 Stat. 430, 16 U.S.C. 777) as amended. The divisions of conservation and resources enforcement, aquatic resources, and forestry and wildlife of the department of land and natural resources shall perform such acts as may be necessary to the conduct and establishment of cooperative fish and wildlife restoration and management projects, as defined in the Acts of Congress and in compliances with the Acts and rules and regulations promulgated by the Secretary of the Interior thereunder; provided that federal aid funds granted under the Acts shall be used for the purposes of approved projects, and no funds accruing to the State from license fees paid by sport fishermen and hunters shall be diverted for any purpose other than as provided for in the Acts and rules and regulations promulgated pursuant thereto."

SECTION 21. Section 187-8, Hawaii Revised Statutes, is repealed.

SECTION 22. Section 187-9, Hawaii Revised Statutes, is repealed.

SECTION 23. Section 187-10, Hawaii Revised Statutes, is repealed.

SECTION 24. Section 187-11, Hawaii Revised Statutes, is repealed.

SECTION 25. Section 187-12, Hawaii Revised Statutes, is repealed.

SECTION 26. Section 187-13, Hawaii Revised Statutes, is amended to read:

**"§187-13 Destruction of predators.** On any game management area or forest reserve or other lands under the jurisdiction of the department of land and natural resources predators deemed harmful to wildlife or game by officers or agents of the department may be destroyed by any means deemed necessary by the department or any of its officers or agents."

SECTION 27. Section 187-15, Hawaii Revised Statutes, is repealed.

SECTION 28. Section 187-16, Hawaii Revised Statutes, is repealed.

SECTION 29. Section 187-17, Hawaii Revised Statutes, is amended to read:

**"§187-17 Disposition or revenues.** All moneys collected each month as fees for hunting and fishing permits or licenses, and all fees for commercial marine activities including commercial marine licenses, mullet licenses, and all other moneys collected under the provisions of any law relating to the importation, taking, catching, killing of aquatic life, game, wildlife, and products thereof shall be deposited with the

director of finance to the credit of the general fund. The moneys collected shall be available for expenditure only by the department of land and natural resources in accordance with appropriations authorized by the legislature of the State, and shall be expended by the department for the importation, management, preservation, propagation, and protection of aquatic life, game, or wildlife into or in the State, and for the payment of expenses incurred in the prosecution of offenders against the fishing and hunting license laws of the State, and for the conservation of commercial fisheries and all phases of the work pertaining thereto and all expenses connected therewith, which the department in its discretion deems expedient."

SECTION 30. Section 187-19, Hawaii Revised Statutes, is amended to read:

**"§187-19 University of Hawaii may use land, etc.** The University of Hawaii shall have the privilege, free of charge, of using the land, buildings, apparatus, and appliances of the aquatic resources division of the department of land and natural resources for the purposes of a marine biological laboratory and of research and investigation in connection therewith, so far as the same can be done without material interference with the use of the same as a fish hatchery or for other fisheries-related activities; the university rendering to the department, in return therefor, such assistance as is reasonably practicable, in connection with the hatchery or for other fisheries-related activities, and as may be mutually agreed upon."

SECTION 31. Section 188-21, Hawaii Revised Statutes, is repealed.

SECTION 32. Section 188-22, Hawaii Revised Statutes, is repealed.

SECTION 33. Section 188-23, Hawaii Revised Statutes, is amended to read:

**"§188-23 Possession or use of explosives, electrofishing devices, and poisonous substances in state waters prohibited; exception.** (a) It is unlawful to possess or use on or near state waters, any explosives, blasting fuse caps, electrofishing devices, or any source of electrical energy with appurtenant devices for the introduction of electricity into the water for the purpose of taking aquatic life, except under the terms and conditions of a permit first obtained by the user from the department. The department may issue permits for the use of electrofishing devices and explosives consistent with other legal requirements.

(b) It is unlawful to deposit in, permit to pass into, or place where it can pass into the state waters for the purpose of taking aquatic life any of the following:

- (1) Any petroleum, coal or oil tar, lampblack, aniline, asphalt, bitumen, or residuary product of petroleum or carbonaceous material or substance;
- (2) Hypochlorous acid or any of its salts, including bleaches commonly sold under various trade names, such as Clorox and Purex, and bleaching powders;
- (3) Preparations containing rotenone, tephrosin, or plant materials from Barringtonia asiatica, Coccus ferrandianus, Hura crepitans, Priscidia erythrina,† Tephrosia purpurea,† Wikstroemia;† and
- (4) Any other substance or material deleterious to aquatic life; except under

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† Probably should read "Piscidia erythrina", "Tephrosia purpurea", Wikstroemia".

the terms and conditions of a permit first obtained by the user from the department.

The department may issue permits to allow the possession of stated amounts of these substances poisonous to aquatic life if the department deems the amount in possession is for legitimate purposes or in quantities too small to harm aquatic life.

The possession of these substances without a permit by any person on or near the water where fish can be taken, or aboard any fishing vessel or boat is *prima facie* evidence of a violation of this section.

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.

Nothing in this section shall be held or construed to be an amendment of the rules of the department of transportation."

SECTION 34. Section 188-24, Hawaii Revised Statutes, is repealed.

SECTION 35. Section 188-25, Hawaii Revised Statutes, is amended to read:

**"§188-25 Fishing with firearms, spears.** (a) It is unlawful for any person to pursue, take, or kill any turtle, crustacean, mollusk, aquatic mammal, or fish other than sharks in the waters of the State with firearms as defined in section 134-1 or to pursue, take, or kill any crustacean (except introduced freshwater prawns), turtle, or aquatic mammal with a spear.

(b) After December 31, 1983, it is unlawful for any person to sell or offer to sell any fish other than sharks, u'u, uhu, and kumu taken or killed with a spear; provided that fish may be lawfully taken or killed with a spear for home consumption only.

(c) Any crustacean, mollusk, aquatic mammal, or fish taken or killed or offered for sale in violation of this section shall be confiscated and offered as evidence. For the purpose of this section, "spear-gun" means any artificial device used to propel a spear or spears by means of compressed air or gas, elastic, spring, or any motive power.

(d) It is unlawful for any person to take any fish by the use of spears, or have in his possession any speared fish which is smaller than the minimum size for the fish as specified in section 188-40 and any person violating this provision for the first time shall receive a citation. Any subsequent violation shall be punished as provided in section 188-70; provided that the first such subsequent violation shall be considered a first violation for the purpose of section 188-70."

SECTION 36. Section 188-26, Hawaii Revised Statutes, is repealed.

SECTION 37. Section 188-27, Hawaii Revised Statutes, is repealed.

SECTION 38. Section 188-29, Hawaii Revised Statutes, is amended to read:

**"§188-29 Nets and traps.** It is unlawful for any person to use nets or traps of any type with a stretched mesh of less than two inches, or to use any trap which is not portable or which is more than ten feet in length or six feet in height or width; provided that:

(1) Persons engaged in sport fishing may use throw nets with stretched mesh of not less than one and one-half inches,

- (2) Pond owners or operators who hold a license issued under section 188-44 may use nets of smaller mesh to take young mullet or pua for stocking their fish ponds,
- (3) Commercial marine licensees who hold a license issued under section 188-45 may use nets of smaller mesh to take nehu, iao, marquesan sardine, or any other species for which an open season may be declared by the department of land and natural resources for use as bait,
- (4) All persons may use nets of smaller mesh to take shrimp or opae, opelu, makiawa, or mikiawa,
- (5) Aquarium fish collectors with a valid aquarium fish permit issued by the department pursuant to section 188-31 may use nets of smaller mesh to take aquarium fish in conformance with the conditions of the permit, and
- (6) All persons may use a net with mesh of not less than one and one-half inches to take akule; provided that no akule measuring less than eight and one-half inches in total length from the tip of the snout to the tip of the tail shall be taken with a net during the months of July, August, September, and October."

SECTION 39. Section 188-30, Hawaii Revised Statutes, is amended to read:

**"§188-30 Possession of fine meshed throw nets.** It is unlawful for any person who is in the water or on or about the shore where fish can be taken to have in his possession a throw net with a mesh of less than one and one-half inches stretched measure."

SECTION 40. Section 188-30.2, Hawaii Revised Statutes, is amended to read:

**"§188-30.2 Fishing with gill nets.** It is unlawful for any person engaged in gill net fishing to leave his net unattended for a period of more than twelve hours."

SECTION 41. Section 188-32, Hawaii Revised Statutes, is repealed.

SECTION 42. Section 188-33, Hawaii Revised Statutes, is repealed.

SECTION 43. Section 188-34, Hawaii Revised Statutes, is amended to read:

**"§188-34 Fishing in Honolulu harbor, Hilo bay, restricted.** It is unlawful to take or kill fish by means of any draw, drag, or seine net in the waters of the harbor of Honolulu; provided that commercial marine licensees as defined in chapter 187 may take bait fish by means of any draw, drag, or seine net during periods scheduled by the harbor master.

It is unlawful except for commercial marine licensees taking bait fish, or persons using their catch solely for home consumption, to take or kill fish by means of any draw, drag, or seine net in the waters of that portion of the bay of Hilo bounded by the breakwater, a line from the outer end of the breakwater of Alealea Point and the shoreline from Alealea Point to the inshore end of the breakwater.

SECTION 44. Section 188-35, Hawaii Revised Statutes, is amended to read:

**"§188-35 Fishing in certain waters.** It is unlawful for any person to fish in or take aquatic life from the waters:

- (1) Of the Waikiki reclamation canal, Oahu;

- (2) Of the drainage canal constructed in connection with Kapiolani Boulevard, Oahu;
- (3) Of the Kapalama drainage canal, Oahu;
- (4) Off Heeia-Kea wharf, Oahu;
- (5) Within that portion of Waialua Bay delineated on the seaward boundary by lines drawn one hundred yards seaward of and parallel to the Haleiwa Harbor Breakwater and one hundred yards seaward of and parallel to the Haleiwa Beach Groin including the extension to the intercept of these lines and the inland boundary consisting of a line drawn ten yards downstream of and parallel to the Anahulu Bridge, Oahu;
- (6) Within that portion of Pokai Bay including the Pokai Boat Harbor and the Waianae Small Boat Harbor delineated on the seaward boundary by a straight line drawn from Kaneilio Point to Lahilahi Point with the northwestern boundary to be delineated by a straight line extending from the southernmost tip of the point immediately seaward of Waianae High School on a southwest azimuth to the intercept of the seaward boundary extending from Kaneilio Point to Lahilahi Point, Oahu; and

(7) Of the Kapaa and Waikaena canals, Kauai;

with any device whatsoever, except as hereinafter provided.

With reference to any of the places or areas named above, any person may at any time fish or take any fish with one line, or one rod and line, provided the line shall not have more than two hooks; or may take crabs with not more than ten nets, provided the nets shall not exceed two feet in diameter; or may take shrimps for bait purposes only with a hand net, provided the net shall not exceed three feet in any dimension; provided that in the Waikiki reclamation canal any person may take up to fifty tabai or mosquito fish, or o'opu akupa, or tilapia or any combination thereof, per day, for non-commercial purposes only, with a single small mesh net, provided that the net including any handle and other attachment thereto shall not exceed three feet in any dimension.

With a license obtained from the department of land and natural resources and under rules the department may adopt, the owner or operator of a fish pond may take pua or other small fish, using nets, for the purpose of stocking the fish pond.

With a license from the department, commercial marine licensees may take nehu or iao, using nets for bait purposes only.

The department may issue licenses at its discretion and at any time may revoke any or all licenses when, in its judgment, the action is necessary to preserve the stock of fish in the canals or waters."

SECTION 45. Section 188-36, Hawaii Revised Statutes, is amended to read:

**"§188-36 Hawaii marine laboratory refuge.** It is unlawful for any person within the Hawaii marine laboratory refuge to take any aquatic life. Nothing in this section shall apply to any officer, faculty member, employee, or student of the University of Hawaii or licensee of the board of regents of the University of Hawaii, while employed in catching or taking aquatic life for scientific purposes.

The Hawaii marine laboratory refuge consists of the reefs and bay waters surrounding the island of Moku-o-loe located in Kaneohe Bay, island of Oahu, from the high water mark on the island extending outward to "twenty-five feet beyond the

outer edges of the reefs."

All laws enacted for the protection of aquatic life or wildlife shall likewise apply to the Hawaii marine laboratory refuge, except that no person or persons, other than those designated by this section, shall be authorized to catch or take aquatic life in the refuge.

The Hawaii marine laboratory refuge shall continue only as long as the regents of the University of Hawaii maintain the Hawaii marine laboratory on the island of Moku-o-loe, island of Oahu."

SECTION 46. Section 188-37, Hawaii Revised Statutes, is amended to read:

**“§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.

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 47. Section 188-38, Hawaii Revised Statutes, is repealed.

SECTION 48. Section 188-39, Hawaii Revised Statutes, is repealed.

SECTION 49. Section 188-42, Hawaii Revised Statutes, is repealed.

SECTION 50. Section 188-43, Hawaii Revised Statutes, is amended to read:

**“§188-43 Hinana, and oopu, taking of, prohibited.** It is unlawful for any person to fish for, or attempt to take any of the fish known as hinana or oopu, by means of traps or weirs."

SECTION 51. Section 188-44, Hawaii Revised Statutes, is amended to read:

**“§188-44 Mullet, catching prohibited, when; exceptions.** It is unlawful for any person to wilfully fish for, or attempt to take by any means whatsoever, from any of the waters within the jurisdiction of the State, or to sell, offer for sale, or have in

possession any mullet, known as amaama, or anaeholo during the months of December, January, or February; provided that any owner or operator of a fish pond, may lawfully catch the young mullet, known as pua, during the closed season, for the purpose of stocking his pond; and provided further that any owner or operator of a fish pond or any dealer may lawfully sell pond raised mullet during the closed season after first procuring a license granting this privilege.

Licenses to sell pond raised mullet shall be issued by the department of land and natural resources upon the payment of \$5, but any dealer having more than one market shall take out a separate license for each market or wagon from which mullet are sold.

All licenses shall expire on June 30 of each year.

Any licensee who sells, offers for sale, or has in his possession any sea mullet shall, on conviction, forfeit his license to sell mullet during the closed season. The department may also 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 52. Section 188-45, Hawaii Revised Statutes, is amended to read:

**"§188-45 Nahu and iao, taking prohibited; exceptions.** It is unlawful for any person to fish for, catch, or take in or from any of the waters within the jurisdiction of the State any nehu or iao; provided that any person may lawfully catch nehu for his family consumption or bait purposes with a net not longer than fifty feet; and provided further that the department of land and natural resources may issue to commercial marine licensees as defined in chapter 187 licenses to take nehu, iao, or any other species for which an open season may be declared by the department for use as bait only; provided that nehu may be taken by any licensed commercial marine licensee only if employed on a livebait tuna boat and only if the licensee's principal means of livelihood is derived from tuna fishing and the sale of tuna, and the nehu is not sold to others. The licenses may be issued by the department upon terms and conditions the department may deem necessary to conserve the supply of the fish within state waters. The license may be summarily revoked for a violation of any term or condition thereof, and any or all licenses may be revoked summarily whenever, in the judgment of the department, the action is necessary for the conservation of the fish.

Any person whose license has been revoked for violation of the terms and conditions of the person's license shall not be eligible for another license until the expiration of one year from the date of revocation."

SECTION 53. Section 188-46, Hawaii Revised Statutes, is amended to read:

**"§188-46 Opelu fishing regulated.** It is unlawful for any person at any time, to fish for or take, or be engaged in fishing or taking opelu with fish or animal bait within the waters off the coast of South Kona, island of Hawaii, between Kiilae-Keokea boundary and the Kapua-Kaulanamauna boundary, except with hook and line."

SECTION 54. Section 188-47, Hawaii Revised Statutes, is repealed.

SECTION 55. Section 188-48, Hawaii Revised Statutes, is repealed.

SECTION 56. Section 188-49, Hawaii Revised Statutes, is repealed.

SECTION 57. Section 188-50, Hawaii Revised Statutes, is amended to read:

**“§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.

(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 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.

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 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.

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 old shall be deemed part of the catch of the licensed adult accompanying him.

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 58. Section 188-51, Hawaii Revised Statutes, is repealed.

SECTION 59. Section 188-52, Hawaii Revised Statutes, is repealed.

SECTION 60. Section 188-53, Hawaii Revised Statutes, is amended to read:

**"§188-53 Fishing reserves, refuges, and public fishing areas.** (a) For the purposes of managing, preserving, protecting, conserving, and propagating introduced freshwater fishes, and other freshwater or marine life, the department of land and natural resources may establish, maintain, manage, and operate freshwater or marine fishing reserves, refuges, and public fishing areas in areas under its control as it may deem desirable and may enter into agreements for the taking of control of privately owned waters, lands, or fisheries for such purposes. The department may make, adopt, and amend rules and may issue permits as it deems necessary for managing the fishing reserves, refuges, and public fishing areas, and other waters or lands under the jurisdiction or control of the State.

(b) It is unlawful for any person to enter any area established under this section without first obtaining a permit from the department, if permits are required, or to violate any rule adopted by the department governing same.

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 61. Section 188-54, Hawaii Revised Statutes, is repealed.

SECTION 62. Section 188-54.1, Hawaii Revised Statutes, is repealed.

SECTION 63. Section 188-54.2, Hawaii Revised Statutes, is repealed.

SECTION 64. Section 188-55, Hawaii Revised Statutes, is repealed.

SECTION 65. Section 188-56, Hawaii Revised Statutes, is repealed.

SECTION 66. Section 188-57, Hawaii Revised Statutes, is amended to read:

**"§188-57 Certain crustaceans protected.** It is unlawful for any person to take, kill, sell, or offer for sale, or have in possession any Kona crabs, spiny lobster (ula), or slipper lobster (ula-papapa), taken from the waters within the jurisdiction of the State during the months of June, July, and August. The possession of any Kona crabs, spiny lobster (ula), or slipper lobster (ula-papapa), by any person during the months of June, July, and August shall be prima facie evidence that the person is guilty of a violation of this section; provided that any dealer may sell, or any hotel or other public eating house may serve Kona crabs or lobsters lawfully caught during the open season by first procuring a license granting this privilege.

Licenses to sell or serve Kona crab or lobster during June, July, and August shall be issued by the department of land and natural resources upon the payment of \$5 by wholesale dealers, \$2.50 by retail markets and \$1 for any hotel or other class of

restaurant; provided that each license holder shall submit a report to the department within five days after the end of each of the months on blanks furnished by the department, which report shall give the name of the person or firm from whom the Kona crabs or lobsters were purchased, to whom sold, the number and weight bought or sold and the number and weight on hand the first and last day of each month.

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 67. Section 188-58, Hawaii Revised Statutes, is amended to read:

**"§188-58 Crustaceans with eggs.** It is unlawful for any person to catch or take from any bays, harbors, or other waters of the State, or to expose or offer for sale, or to hold in possession with the intent of exposing or offering for sale, or to kill, any crustacean known as spiny lobster or ula, slipper lobster or ula-papapa, kuahonu crab, Samoan crab, or Kona crab while with egg. If any of the crustaceans be caught, they must immediately be returned to the waters from which they were taken. The possession of any spiny lobster or ula, slipper lobster or ula-papapa, kuahonu crab, Samoan crab or Kona crab, showing indications of the eggs having been scraped or removed therefrom, shall be prima facie evidence of the violation of this section."

SECTION 68. Section 188-59, Hawaii Revised Statutes, is repealed.

SECTION 69. Section 188-60, Hawaii Revised Statutes, is repealed.

SECTION 70. Section 188-61, Hawaii Revised Statutes, is repealed.

SECTION 71. Section 188-62, Hawaii Revised Statutes, is repealed.

SECTION 72. Section 188-63, Hawaii Revised Statutes, is repealed.

SECTION 73. Section 188-64, Hawaii Revised Statutes, is repealed.

SECTION 74. Section 188-65, Hawaii Revised Statutes, is repealed.

SECTION 75. Section 188-66, Hawaii Revised Statutes, is repealed.

SECTION 76. Section 188-67, Hawaii Revised Statutes, is repealed.

SECTION 77. Chapter 188, Hawaii Revised Statutes, is amended by adding a new section to be designated as section 188-70 and to read:

**"§188-70 Penalties.** (a) Any person violating any provision of this chapter, excepting section 188-23, or any rule adopted pursuant thereto, is guilty of a petty misdemeanor and upon conviction thereof, shall be punished as follows:

- (1) For a first conviction, by a fine of not more than \$500, or by imprisonment of not more than thirty days, or both;
- (2) For a second conviction within five years of a previous conviction by a fine not less than \$100 nor more than \$500, or by imprisonment of not more than thirty days, or both;
- (3) For a third or subsequent conviction within five years of the first two or more convictions, by a fine of not less than \$300 nor more than \$500, or by imprisonment of not more than thirty days, or both.

(b) Any person violating section 188-23, is guilty of a misdemeanor and upon conviction thereof, shall be punished as follows:

- (1) For a first conviction by a fine of not more than \$1,000, or by imprisonment of not more than one year, or both;
- (2) For a second conviction within five years of a previous 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;
- (3) For a third or subsequent conviction within five years of the first two or more convictions, by a fine of not less than \$500 nor more than \$1,000, or by imprisonment of not more than one year, or both.

(c) In addition to the above penalties, for the first conviction a fine of up to \$25 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 shall be levied for each specimen of aquatic life taken illegally under this chapter."

SECTION 78. Section 189-1, Hawaii Revised Statutes, is repealed.

SECTION 79. Section 189-2, Hawaii Revised Statutes, is amended to read:

**"§189-2 Commercial marine license.** It is unlawful for any person to engage in any taking of marine life for commercial purposes in the waters of the State or to sell or offer for sale or to profit from any sale of marine life anywhere in the State whether the marine life is caught or taken in the waters of the State or outside the waters of the State, without first obtaining a commercial marine license as provided in this section.

The department of land and natural resources shall issue commercial marine licenses upon payment of the prescribed fees and receipt of properly completed applications upon such forms as may be prescribed by the department. The applications for commercial marine licenses shall require a statement of the applicant's name, address, age, place of birth, length of residence in the State, height, weight, color of hair and eyes, citizenship, and such other information as the department may require.

No commercial marine licensee shall permit any other person 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 so show the license shall be sufficient cause for the immediate cancellation of such license by the department.

All licenses issued under this section shall be in force from the date of issuance to June 30 following the date of issuance. Duplicate licenses may be issued to any person upon affidavit that he has lost the license, and upon payment of a fee of 50 cents.

The fee for a commercial marine license shall be:

- (1) \$10 for any person who has resided in the State for one year or longer, and
- (2) \$20 for all other persons,

except that anyone who qualifies as a "trainee" under rules prescribed by the department of land and natural resources 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.

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 80. Section 189-3, Hawaii Revised Statutes, is amended to read:

**"§189-3 Monthly catch report.** (a) Every commercial marine licensee who sells or offers to sell or profits from any sale of marine life anywhere in the State shall furnish to the department of land and natural resources a report with respect to the marine life taken and any live, fresh, or frozen bait used for each month upon a form prescribed by the department, the form to be known as the "monthly catch report"; provided that whenever the total marine life taken monthly in respect to any commercial marine licensee is insufficient in the judgment of the department to require the submission of a monthly catch report, a certificate of exemption may be issued, and thereafter the commercial marine licensee to whom the certificate of exemption is issued shall not be required to submit monthly catch reports until the certificate is canceled by the department. Certificates of exemption may be canceled at any time. The monthly catch report shall be submitted to the department not later than the tenth day of the month following the month in which the marine life was taken. Failure or refusal on the part of any commercial marine licensee to submit a monthly catch report as prescribed in this section shall be sufficient cause for the revocation by the department of the commercial marine 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 marine licensee shall not be eligible to apply for another license; provided that the period shall not exceed one year from the date of revocation.

(b) Any information submitted to the department by any person in compliance with any requirement under this section shall be confidential and shall not be disclosed, except when required under court order or pursuant to subpoena issued by the state attorney general's office or with the prior written consent of the person submitting the information. The department, by rule, may establish such procedures as may be necessary to preserve such confidentiality, except that the department may release or make public any such information in any aggregate or summary form which does not directly or indirectly disclose the identity of any person who submits such information.

This subsection shall not be construed to include the wet weight harvest of Corallium secundum, Corallium regale, Corallium laauense, Geradia, Callogorgia gilberti, Narella, Calyptrophora, Lepidisis olapa, and Acanella. The wet weight harvest for each of the above shall be reported to the public by the department."

SECTION 81. Section 189-4, Hawaii Revised Statutes, is amended to read:

**"§189-4 Penalties.** In addition to the revocation of a commercial marine license, any person violating any of the provisions of sections 189-2 and 189-3 shall be guilty of a petty misdemeanor, and upon conviction thereof, shall be fined not less

than \$25 nor more than \$500, or imprisoned not less than five nor more than thirty days, or both; provided that in the case of a corporation violating any of the provisions only the fine shall be imposed, but any officer of the corporation who wilfully procures or permits the violation of the provisions by the corporation shall be subject to fine and imprisonment, or both, as in the case of an individual violating the same."

SECTION 82. Section 189-5, Hawaii Revised Statutes, is amended to read:

**"§189-5 Aliens not admitted to United States.** It is unlawful for any person who has not been lawfully admitted to the United States to engage in taking marine life for commercial purposes in the waters of the State. The term "United States" as used in this section, includes the several states and the territories and possessions of the United States."

SECTION 83. Section 189-6, Hawaii Revised Statutes, is amended to read:

**"§189-6 Marine life from waters not within state jurisdiction during closed seasons.** Any other provision of law to the contrary notwithstanding, wherever the possession or sale of marine life or products within the State is prohibited as for instance by a closed season, the prohibition shall not apply where the marine life or products have been taken from or caught outside of the waters of the State and the possession or sale has been licensed by the department of land and natural resources under rules adopted by the department. The department may make rules pursuant to chapter 91 governing the issuance, suspension, and revocation and all other terms of the licenses."

SECTION 84. Section 189-10, Hawaii Revised Statutes, is amended to read:

**"§189-10 Commercial marine dealers to report.** Every commercial marine dealer who engages in the business of buying or selling marine life or products taken within, or adjacent to, the waters of the State, shall render to the department of land and natural resources on or before the tenth day of each month on blanks to be furnished by the department, a true and correct statement showing the weight, number, and value of each of the species of marine life purchased, received, or sold during the previous month."

SECTION 85. Section 189-11, Hawaii Revised Statutes, is amended to read:

**"§189-11 Receipts in duplicate.** Every commercial marine dealer who engages in the business of buying or selling marine life or products taken within, or adjacent to, the waters of the State, who receives marine life or products from any person, shall issue receipts to the person from whom marine life is received and shall give in the receipt (1) the date of the issuance; (2) the name of the person to whom the receipt is issued; (3) the following information with respect to each of the varieties of marine life as the department of land and natural resources shall require: the weight in pounds of each of the varieties received, the numbers of marine life when they average a pound or more, the price per pound paid; and (4) the signature of the dealer who issues the receipt. Any dealer taking his own marine life or handling any marine life taken by commercial marine licensees working for or with him, shall make out the same receipt, giving market price for the marine life as prevails on the date of receipt. A duplicate copy of this receipt shall be kept on file by the dealer

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issuing the same for a period of six months, and the duplicate copy shall be available for inspection at any time within six months, upon demand of the department."

SECTION 86. Section 189-12, Hawaii Revised Statutes, is repealed.

SECTION 87. Section 189-14, Hawaii Revised Statutes, is amended to read:

**"§189-14 Rights of entry, penalties.** The department of land and natural resources may board any vessel used in taking marine life, or enter any place of business where marine life is sold, stored, processed, cooked, canned, or cured, for purposes of investigation and inspection, and inspect any and all books and records containing account of the marine life taken, bought, or sold.

Any person who fails to permit an inspection as provided in this section, or who refuses to produce any book or record containing any information of the marine life taken, bought, or sold, and any person who interferes with any officer or agent of the department in the performance of his duty as authorized in this section, shall be guilty of a petty misdemeanor and, upon conviction thereof, shall be fined not less than \$25 nor more than \$500, or imprisoned not less than five nor more than thirty days, or both."

SECTION 88. Chapter 191, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"§191- Definitions.** As used in this chapter, unless the context clearly indicates otherwise:

- (1) "Department" means the department of land and natural resources.
- (2) "Game birds" means birds designated by law or rule for hunting.
- (3) "Game mammals" mean mammals designated by law or rule for hunting.
- (4) "Wild birds" means birds, other than game birds, living in a wild and undomesticated state, and the young and eggs of such birds.
- (5) "Wild mammals" means mammals, other than game mammals, living in a wild and undomesticated state and the young of such mammals."

SECTION 89. Section 191-2, Hawaii Revised Statutes, is amended to read:

**"§191-2 Application and issuance of licenses; fees.** Hunting licenses shall be issued by agents of the department of land and natural resources upon written application in the form prescribed by the department and the payment of a fee as hereinafter provided. 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 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; and (2) \$15 for all other persons."

SECTION 90. Section 191-3, Hawaii Revised Statutes, is amended to read:

**"§191-3 Licenses, expire when.** (a) All licenses shall expire and become void on June 30 next following the date of issuance, excepting that where anyone is convicted of violating any of the game laws of the State his license shall immediately be forfeited, and anyone convicted for a second offense shall not again be granted a license to hunt for a period of three years after the date of the second conviction.

(b) Subsection (a) to the contrary notwithstanding, no fees or charges shall be

made for licenses issued to persons sixty-five years of age and older."

SECTION 91. Section 191-4, Hawaii Revised Statutes, is amended to read:

**“§191-4 Duplicate licenses.** Duplicate licenses may be issued upon application stating under oath that the original license has been lost or destroyed and upon payment of a fee of 50 cents."

SECTION 92. Section 191-5, Hawaii Revised Statutes, is amended to read:

**“§191-5 Licenses; display thereof.** No person to whom a hunting license has been issued shall permit any other person to carry, display, or use the license in any way. Every person to whom a hunting license has been issued shall carry the license upon his person when hunting, and shall show the license upon the demand of any officer authorized to enforce the game laws of the State. No person, upon the request of an officer, shall refuse to show his license or withhold permission to inspect his game bag, container, hunting coat or jacket, or carrier or vehicle of any kind where game might be concealed."

SECTION 93. Section 191-6, Hawaii Revised Statutes, is hereby repealed.

SECTION 94. Section 191-8, Hawaii Revised Statutes, is amended to read:

**“§191-8 Game birds declaration by department.** The department of land and natural resources may declare, by rule adopted pursuant to chapter 91, any bird which has been or may be introduced into the State to be propagated for hunting purposes, to be a game bird within the meaning of this chapter.

Nothing contained herein shall be construed as permitting the taking, stalking, pursuing, or killing of any game bird under domestication or in the legal possession or control of any person, or where otherwise prohibited by law or rule of the department."

SECTION 95. Section 191-9, Hawaii Revised Statutes, is amended to read:

**“§191-9 Open and closed seasons and bag limits on game birds.** It is unlawful to take, kill, and pursue or have in possession any bird declared as a game bird by state statute or rule of the department of land and natural resources at any time, except during an open season duly established and designated by the department for taking, killing, or possessing the same, or except as provided in chapter 192. The department may adopt rules, pursuant to chapter 91, for the purpose of protecting, conserving, propagating, and harvesting any variety or species of game birds.

Nothing herein shall be construed as making it unlawful for any person to have in his possession, under refrigeration, a number of game birds, legally killed, greater than that fixed as a bag limit by any rule of the department, but not in excess of the daily bag limit for five days."

SECTION 96. Section 191-10, Hawaii Revised Statutes, is repealed.

SECTION 97. Section 191-11, Hawaii Revised Statutes, is repealed.

SECTION 98. Section 191-12, Hawaii Revised Statutes, is amended to read:

**“§191-12 Permits to take wild birds.** The department of land and natural resources may adopt rules pursuant to chapter 91:

(1) Authorizing the taking and collecting of wild birds for scientific

- and educational purposes, or for the purpose of distributing wild birds to different localities in the State pursuant to section 187-1.2;
- (2) Authorizing the keeping of wild birds in captivity for the protection, treatment for injury or disease, propagation, and such other similar purposes as are consistent with the preservation, protection, and conservation of wild birds;
  - (3) Authorizing the taking and destruction of such wild birds as the department may have found after investigation to be destructive to crops or otherwise harmful to agriculture, or constitute a nuisance or a health hazard; or
  - (4) Where species of wild birds are generally destructive to crops or otherwise harmful to agriculture within a district, authorizing their destruction within that area without requiring permits or reports.

The rules shall require the person or persons seeking authority to apply for and obtain a written permit from the department. The permits may prescribe terms and conditions the department deems necessary to prevent abuse of the authority granted thereby, and may be canceled by the department, after notice and hearing, for the violation of any term or condition."

**SECTION 99.** Section 191-13, Hawaii Revised Statutes, is amended to read:

**"§191-13 Taking, injuring, or destroying wild birds prohibited.** Except with a permit issued under section 191-12, it is unlawful for any person to take, catch, injure, kill, or destroy, or attempt to take, catch, injure, or destroy, any wild bird, or to keep or have possession of any wild bird, dead or alive, or to damage or destroy a nest of any wild bird."

**SECTION 100.** Section 191-14, Hawaii Revised Statutes, is amended to read:

**"§191-14 Keeping wild birds in captivity prohibited.** Except as provided in section 191-12, it is unlawful for any person to keep in captivity any wild bird unless the bird was lawfully imported into the State or was bred in captivity from birds lawfully imported."

**SECTION 101.** Section 191-15, Hawaii Revised Statutes, is amended to read:

**"§191-15 Transportation of wild birds from the State prohibited.** It is unlawful for any person to transport or cause to be transported by any means any wild bird from any part of the State; provided that specimens of wild birds required for scientific or educational purposes may be exported from the State only when authorized under permits to be issued by the department of land and natural resources."

**SECTION 102.** Section 191-16, Hawaii Revised Statutes, is amended to read:

**"§191-16 Shooting certain pigeons prohibited.** It is unlawful for any person, other than the owner thereof, to shoot, maim, kill, or detain any Antwerp, messenger, or homing pigeon."

**SECTION 103.** Section 191-17, Hawaii Revised Statutes, is repealed.

**SECTION 104.** Section 191-18, Hawaii Revised Statutes, is amended to read:

**"§191-18 Hunting on private lands prohibited.** It is unlawful for any person to

enter upon any land or premises belonging to, held or occupied by another, for the purpose of hunting with dogs or to shoot, kill, take, or destroy any kind of animal or game without first having obtained permission from the owner, or his duly appointed agent, if the owner is the occupier or holder, or if the owner has let another occupy or hold the same, without having first obtained the permission of the occupier or holder thereof, or the duly appointed agent of the occupier or holder.

No prosecution shall be had under this section, except upon the sworn complaint of the owner, occupier, or holder of the land or premises, or his duly appointed agent, or if the owner, occupier, or holder is either a corporation or a partnership, then the complaint shall be sworn to by some officer of the corporation or by one of the members of the partnership."

**SECTION 105.** Section 191-19, Hawaii Revised Statutes, is amended to read:

**"§191-19 Game mammals defined; exception.** For the purposes of enforcing the wildlife laws of the State the following named mammals are hereby designated as game mammals when living in a wild or feral state not under domestication: deer (family cervidae), pronghorn (family antilocapridae), goat (*capra hircus*), sheep (*ovis aries*), cattle (*bos taurus*), pig (*sus scrofa*), and any other mammal that may be or has been introduced into the State and released for hunting and for which a hunting season is established by legislative act or by rule of the department of land and natural resources.

Nothing contained herein shall be construed as permitting the taking, catching, pursuing, or killing of any mammal in the legal possession or control of any person, or where otherwise prohibited by law or rule of the department."

**SECTION 106.** Section 191-20, Hawaii Revised Statutes, is repealed.

**SECTION 107.** Section 191-21, Hawaii Revised Statutes, is amended to read:

**"§191-21 Open and closed seasons, bag limits on game mammals, etc.** The department of land and natural resources may, pursuant to chapter 91, adopt rules for the purpose of protecting, conserving, propagating, and harvesting any species or variety of game mammal."

**SECTION 108.** Section 191-22, Hawaii Revised Statutes, is amended to read:

**"§191-22 Game management areas, wildlife sanctuaries, public hunting areas.** For the purpose of preserving, protecting, conserving, and propagating birds and mammals, the department of land and natural resources may establish, maintain, manage, and operate game management areas, wildlife sanctuaries, and public hunting areas on land under its control as it may deem desirable; enter into agreements for the taking of control of privately owned lands for such purposes; and adopt rules pursuant to chapter 91 as it may deem necessary for the regulation of the game management areas, wildlife sanctuaries, and public hunting areas.

It is unlawful for any person to violate any rule adopted by the department governing any game management area, wildlife sanctuary, or public hunting area."

**SECTION 109.** Section 191-23, Hawaii Revised Statutes, is repealed.

**SECTION 110.** Section 191-24, Hawaii Revised Statutes, is amended to read:

**"§191-24 Night hunting on private lands; prohibition.** It shall be unlawful for any person to hunt, pursue, capture, take, injure, kill, or possess any game bird,

game mammal, wild bird, or wild mammal at night on privately owned lands. For the purpose of this section, "night" means that period between one-half hour after sunset and one-half hour before sunrise. Violation of this section is a misdemeanor."

**SECTION 111.** Chapter 191, Hawaii Revised Statutes, is amended by adding a new section to be designated section 191-25 and to read:

**"§191-25 Penalties.** (a) Any person violating section 191-1, 191-2, 191-3, 191-4, 191-5, 191-14, or 191-16 shall be guilty of a petty misdemeanor, and upon conviction thereof, shall be punished as follows:

- (1) For a first conviction, by a fine of not less than \$50 nor more than \$500, or imprisonment of not more than thirty days, or both;
  - (2) For a second conviction within five years of a previous conviction, by a fine of not less than \$150 nor more than \$500, or by imprisonment of not more than thirty days, or both;
  - (3) For a third or subsequent conviction within five years of the first two or more convictions, by a fine of not less than \$300 nor more than \$500, or by imprisonment of not more than thirty days, or both.
- (b) Any person violating section 191-8, 191-9, 191-13, 191-15, 191-18, 191-21, 191-22, or 191-24 shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished as follows:
- (1) For a first conviction by a fine of not less than \$100 nor more than \$1,000, or by imprisonment of not more than one year, or both;
  - (2) For a second conviction within five years of a previous 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;
  - (3) For a third or subsequent conviction within five years of the first two or more convictions, by a fine of not less than \$500 nor more than \$1,000, or by imprisonment of not more than one year, or both.
- (c) In addition to the above penalties, a fine of \$25 shall be levied for each bird illegally taken under this chapter and a fine of \$100 shall be levied for each mammal illegally taken under this chapter."

**SECTION 112.** Section 199-3, Hawaii Revised Statutes, is amended to read:

**"§199-3 Conservation and resources enforcement officers, duties.** The conservation and resources enforcement officers, with respect to all state lands, including public lands, state parks, forest reserves, forests, aquatic life and wildlife areas, and any other lands and waters subject to the jurisdiction of the department of land and natural resources, shall:

- (1) Enforce title 12, and chapter 6E, and rules adopted thereunder;
- (2) Investigate complaints, gather evidence, conduct investigations, and conduct field observations and inspections as required or assigned;
- (3) Cooperate with enforcement authorities of the State, counties, and federal government in development of programs and mutual agreements for conservation and resources enforcement activities within the State;
- (4) Cooperate with established search and rescue agencies of the counties and the federal government in developing plans and programs, and mutual aid agreements for search and rescue activities within the State;
- (5) Check and verify all leases, permits, and licenses issued by the department

of land and natural resources;

- (6) Enforce the laws relating to firearms, ammunition and dangerous weapons contained in chapter 134;
- (7) Carry out such other duties and responsibilities as the board of land and natural resources may from time to time direct.

SECTION 113. Section 199-5, Hawaii Revised Statutes, is amended to read:

**“§199-5 Summons or citation.** There shall be a form of summons or citation for use in citing violators of title 12, chapter 6E, and rules adopted thereunder, which do not mandate the physical arrest of the violators. The summons or citation shall be printed in a form commensurate with the form of other summons or citation used in modern methods of arrest and shall be so designed to include all necessary information to make it valid and legal within the laws and rules of the State. The form and content of the summons or citation shall be adopted or prescribed by the district courts.

In every case where a summons or citation is issued the original of the same shall be given to the violator; provided that the district courts may prescribe the issuance to the violator of a carbon copy of the summons or citation and provide for the disposition of the original and any other copies.

Every summons or citation shall be consecutively numbered and each carbon copy shall bear the number of its respective original.”

SECTION 114. Section 199-6, Hawaii Revised Statutes, is amended to read:

**“§199-6 Failure to obey a summons.** Any person who fails to appear at the place and within the time specified in the summons or citation issued by the officers or their agents or subordinates, upon that person's arrest for violation of title 12, chapter 6E, and rules adopted thereunder, shall be guilty of a petty misdemeanor and, upon conviction, shall be fined not more than \$500 or be imprisoned not more than thirty days, or both.

If any person fails to comply with a summons or citation issued, or if any person fails or refuses to deposit bail as required and within the time permitted, the officers shall cause a complaint to be entered against the person and secure the issuance of a warrant for his arrest.

When a complaint is made to any prosecuting officer of the violation of title 12, chapter 6E, and rules adopted thereunder, the officer who issued the summons or citation shall subscribe to it under oath administered by another official or officials of the department of land and natural resources whose names have been submitted to the prosecuting officer and who have been designated by the chairman of the board of land and natural resources to administer the same.”

SECTION 115. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 116. This Act shall take effect upon its approval.

(Approved May 30, 1981.)

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

A Bill for an Act Relating to Dispensing Opticians.

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

SECTION 1. Section 458-1, Hawaii Revised Statutes, is amended to read as follows:

**“§458-1 Dispensing optician defined.** An individual is deemed to be engaged in the occupation of dispensing optician who prepares and dispenses lenses, spectacles, eyeglasses, or appurtenances thereto to the intended wearer thereof on written prescription from physicians or optometrists duly licensed to practice their professions, and in accordance with the prescriptions interprets, measures, adapts, fits, and adjusts the lenses, spectacles, eyeglasses, or appurtenances thereto to the human face for the aid or correction of visual or ocular anomalies of the human eyes.”

SECTION 2. Section 458-2, Hawaii Revised Statutes, is amended to read as follows:

**“§458-2 Board of examiners; members, qualifications.** The governor shall appoint in the manner prescribed in section 26-34 as the board of dispensing opticians (hereinafter in this chapter referred to as the “board”) five members.

No member of the board shall be reappointed to succeed himself thereon. Upon the expiration of his term of office a member shall continue to serve until his successor has been appointed and has qualified. A member may be removed by the governor in the manner prescribed in section 26-34. Three members of the board shall be persons engaged in the occupation of dispensing opticians and two shall be public members. Each member of the board is entitled to necessary travel and other expenses incurred in the discharge of his duties.”

SECTION 3. Section 458-4, Hawaii Revised Statutes, is amended to read as follows:

**“§458-4 Application for certificate of dispensing optician.** Before engaging or continuing in the occupation of dispensing optician individuals shall first apply for and be granted certificates of dispensing opticians by the board of dispensing opticians. Applications for such registration shall be on forms prescribed by the board, and shall bear the signature of the individual. The application shall contain the name under which the applicant proposes to do business, and the business address. Separate applications shall be made for each place of business, and each application shall be accompanied by a registration fee of \$50. Upon refusal or denial of a certificate upon such application, the board shall refund to the applicant \$25 of the fee.”

SECTION 4. Section 458-5, Hawaii Revised Statutes, is amended to read as follows:

**“§458-5 Same; contents of.** Each application, to enable the board of dispensing opticians to consider if the applicant should be registered under this chapter, shall contain:

- (1) The experience of the applicant;

- (2) The name and experience of each person who will take facial measurements, fit, or adjust lenses or frames or duplicate lenses;
- (3) Such other information as the board requires."

SECTION 5. Section 458-6, Hawaii Revised Statutes, is amended to read as follows:

**"§458-6 Issuance or denial of certificate of dispensing optician.** If the board of dispensing opticians, after examination, approves the application and finds the applicant to be competent and qualified to accurately fill prescriptions for ophthalmic lenses and otherwise to engage in the business of dispensing optician, it shall register the applicant and issue to the applicant a certificate of dispensing optician. If the board does not so determine, it shall deny the application. A separate certificate is required for each address where the business is to be conducted. The certificate shall authorize the applicant to engage in the business of dispensing optician. The certificate shall be at all times displayed in a conspicuous place at the place of the business licensed. The certificate shall not be transferable."

SECTION 6. Section 458-7, Hawaii Revised Statutes, is amended to read as follows:

**"§458-7 Reports to board; required experience of employees.** Each holder of a certificate of dispensing optician shall file with the board of dispensing opticians a report containing the names and experience of each person employed by the certificate holder, who, in the course of his employment, takes facial measurements, fits or adjusts lenses or frames, or duplicates lenses, together with such other information as the board requires. No certificate holder shall cause any person to take facial measurements, fit or adjust lenses or duplicate frames unless such persons are acting under the direct personal supervision of a certificate holder."

SECTION 7. Section 458-13, Hawaii Revised Statutes, is amended to read as follows:

- "§458-13 Acts prohibited.** It shall be unlawful to do any of the following:
- (1) To engage in the business of dispensing optician without first having been issued a certificate of dispensing optician under this chapter;
  - (2) To advertise in any manner that would tend to mislead or deceive the public;
  - (3) To furnish the services of an optometrist, physician, or surgeon or directly or indirectly employ or maintain on or near the premises used for optical dispensing any optometrist, physician, or surgeon, or the practitioner of any other profession for the purpose of any examination or treatment of the eyes;
  - (4) To dispense, furnish, or supply the services and appliances relating to the business of dispensing optician to the intended wearer or user thereof, except upon a prescription issued by a licensed physician, surgeon, or optometrist; provided, that duplications, replacements, reproductions, and repetitions, without change in the refractive value may be done without prescription by individuals or firms holding a certificate of dispensing optician issued under this chapter;
  - (5) To fit or duplicate, or offer, undertake, or attempt to fit or duplicate hard

and soft contact lenses or artificial eyes except under the written orders and personal supervision of an ophthalmologist or optometrist;

- (6) For a dispensing optician to grant, allow, credit, or pay, directly or indirectly, openly or secretly, any price differential, rebate, refund, discount, commission, credit, kickback, or other such allowance, whether in the form of money or otherwise, to any such oculist, optometrist, physician, surgeon, or practitioner of any other profession (A) for or on account of the referring or sending by any such oculist, optometrist, physician, surgeon, or practitioner to the dispensing optician of any person for the rendition of any of the services performed or articles or appliances furnished by a dispensing optician as described in section 458-1, or (B) for or on account of the rendition of any such services or the furnishing of any such articles or appliances to a person so referred or sent by any such oculist, optometrist, physician, surgeon, or practitioner. Every such scheme, agreement, undertaking, arrangement, or device shall also be deemed in violation of section 481-7. The certificate of every dispensing optician who violates this subsection shall be revoked."

SECTION 8. 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, 1979:

- (1) Chapter 443 (Collection Agencies Board)
- (2) Chapter 467A (Rental Agencies)
- (b) The following chapters are hereby repealed effective December 31, 1980:
  - (1) Chapter 436 (Board of Examiners for Abstract Makers)
  - (2) Chapter 468J (Travel Agencies)
  - (3) Chapter 443 (Collection Agencies Board)
- (c) The following chapters are hereby repealed effective December 31, 1981:
  - (1) Chapter 441 (Cemetery Board)
  - (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
  - (3) Chapter 457B (Board of Examiners of Nursing Home Administrators)
  - [4] Chapter 458 (Board of Dispensing Opticians)
  - [5] (4) Chapter 459 (Board of Examiners in Optometry)
  - [6] (5) Chapter 465 (Board of Certification for Practicing Psychologists)
  - [7] (6) Chapter 468E (Board of Speech Pathology and Audiology)
  - [8] (7) Chapter 452 (Board of Massage)
- (d) The following chapters are hereby repealed effective December 31, 1982:
  - (1) Chapter 436D (Board of Acupuncture)
  - (2) Chapter 437B (Motor Vehicle Repair Industry Board)
  - (3) Chapter 442 (Board of Chiropractic Examiners)
  - (4) Chapter 448E (Board of Electricians and Plumbers)
  - (5) Chapter 464 (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
  - (6) Chapter 466 (Board of Public Accountancy)
  - (7) Chapter 467 (Real Estate Commission)

- (8) Chapter 448H (Elevator Mechanics Licensing Board)
- (e) The following chapters are hereby repealed effective December 31, 1983:
  - (1) Chapter 444 (Contractors License Board)
  - (2) Chapter 448 (Board of Dental Examiners)
  - (3) Chapter 453 (Board of Medical Examiners)
  - (4) Chapter 457 (Board of Nursing)
  - (5) Chapter 460 (Board of Osteopathic Examiners)
  - (6) Chapter 460J (Pest Control Board)
  - (7) Chapter 461 (Board of Pharmacy)
- (f) The following chapters are hereby repealed effective December 31, 1984:
  - (1) Chapter 455 (Board of Examiners in Naturopathy)
  - (2) Chapter 463E (Podiatry)
  - (3) Chapter 438 (Barbering, Practice of)
  - [[4]] Chapter 439 (Beauty Culture)
  - (5) Chapter 458 (Board of Dispensing Opticians)
- (g) The following chapters are hereby repealed effective December 31, 1985:
  - (1) Chapter 437 (Motor Vehicle Industry Licensing Board)[.]
  - (2) Chapter 440 (Boxing Commission)
- (h) The following chapters are hereby repealed effective December 31, 1986:
  - (1) Chapter 447 (Dental Hygienists)
  - [[2]] Chapter 463 (Board of Private Detectives and Guards)
  - [[3]] Chapter 471 (Board of Veterinary Examiners)[.]

SECTION 9. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 10. This Act shall take effect upon its approval.

(Approved June 2, 1981.)

ACT 87

S.B. NO. 636

A Bill for an Act Relating to the Hawaii Regulatory Licensing Reform Act.

*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, 1979:
- (1) Chapter 443 (Collection Agencies Board)
  - (2) Chapter 467A (Rental Agencies)
- (b) The following chapters are hereby repealed effective December 31, 1980:

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\*Except as to Section 8, the text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 87

- (1) Chapter 436 (Board of Examiners for Abstract Makers)
- (2) Chapter 468J (Travel Agencies)
- (3) Chapter 443 (Collection Agencies Board)
- (c) The following chapters are hereby repealed effective December 31, 1981:
  - (1) Chapter 441 (Cemetery Board)
  - (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
  - (3) Chapter 457B (Board of Examiners of Nursing Home Administrators)
  - (4) Chapter 458 (Board of Dispensing Opticians)
  - (5) Chapter 459 (Board of Examiners in Optometry)
  - (6) Chapter 465 (Board of Certification for Practicing Psychologists)
  - (7) Chapter 468E (Board of Speech Pathology and Audiology)
  - (8) Chapter 452 (Board of Massage)
- (d) The following chapters are hereby repealed effective December 31, [1982:]

1983:

- (1) Chapter 436D (Board of Acupuncture)
- (2) Chapter 437B (Motor Vehicle Repair Industry Board)
- (3) Chapter 442 (Board of Chiropractic Examiners)
- (4) Chapter 448E (Board of Electricians and Plumbers)
- (5) Chapter 464 (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
- (6) Chapter 466 (Board of Public Accountancy)
- (7) Chapter 467 (Real Estate Commission)
- (8) Chapter 448H (Elevator Mechanics Licensing Board)

- (e) The following chapters are hereby repealed effective December 31, [1983:]

1984:

- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448 (Board of Dental Examiners)
- (3) Chapter 453 (Board of Medical Examiners)
- (4) Chapter 457 (Board of Nursing)
- (5) Chapter 460 (Board of Osteopathic Examiners)
- (6) Chapter 460J (Pest Control Board)
- (7) Chapter 461 (Board of Pharmacy)

- (f) The following chapters are hereby repealed effective December 31, [1984:]

1985:

- (1) Chapter 455 (Board of Examiners in Naturopathy)
- (2) Chapter 463E (Podiatry)
- (3) Chapter 438 (Barbering, Practice of)
- [4][4] Chapter 439 (Beauty Culture)
- (5) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
- (6) Chapter 457B (Board of Examiners of Nursing Home Administrators)
- (7) Chapter 458 (Board of Dispensing Opticians)
- (8) Chapter 452 (Board of Massage)

- (g) The following chapters are hereby repealed effective December 31, [1985:]

1986:

- (1) Chapter 437 (Motor Vehicle Industry Licensing Board)[.]

(2) Chapter 440 (Boxing Commission)

(h) The following chapters are hereby repealed effective December 31, [1986:]

1987:

(1) Chapter 447 (Dental Hygienists)

[[(2)[ ]]] Chapter 463 (Board of Private Detectives and Guards)

[[(3)[ ]]] Chapter 471 (Board of Veterinary Examiners)[.]

(i) The following chapters are hereby repealed effective December 31, 1988:

(1) Chapter 468E (Board of Speech Pathology and Audiology)

(2) Chapter 465 (Board of Certification for Practicing Psychologists)

(3) Chapter 459 (Board of Examiners in Optometry)."

SECTION 2. Chapter 26H, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§26H- Period of reenactment.** (a) Any chapter repealed by section 26H-4 may be reenacted by the legislature for no more than a six-year period following each evaluation required by section 26H-5.

(b) Any chapter repealed by section 26H-4 may be reenacted for a period up to ten years if the legislature elects to continue the chapter which has been previously reviewed and reenacted twice within a ten-year period under this chapter.

(c) The legislative auditor shall, in the evaluation report under section 26H-5, inform the legislature if the chapter which is the subject of the evaluation report falls within subsection (b)."

SECTION 3. Section 26H-5, Hawaii Revised Statutes, is amended to read as follows:

**"§26H-5 Evaluation; report.** (a) The legislative auditor shall evaluate each board, commission, and regulatory program created under a chapter repealed by section 26H-4 and shall submit an evaluation report to the legislature prior to the convening of the regular session of the year of the repeal date; provided that the legislative auditor shall evaluate each board, commission, and regulatory program at least once every ten years. The evaluation shall assess whether the regulatory program established by the chapter complies with the policies established by section 26H-2 and whether the public interest requires that the chapter be reenacted, modified, or permitted to expire. Each board or commission and the director shall assist the auditor in collecting and reporting such data as the auditor may require to conduct the evaluation. Even if the auditor finds that the chapter should not be reenacted, the auditor shall evaluate the effectiveness and efficiency of the regulatory program and make appropriate recommendations to improve the policies, procedures, and practices. The legislature may hold a public hearing on each evaluation report. If the auditor finds that a regulatory program within the chapter should be permitted to expire, the auditor shall make recommendations, if needed, for appropriate restrictions to be placed on the program subsequent to the termination of regulation.

(b) The legislative auditor shall provide each board, commission, or regulatory program evaluated pursuant to this chapter not less than thirty days to review and comment upon the evaluation report prior to submission of the report to the legislature; provided that if the legislative auditor fails to provide the thirty day

## ACT 88

review and comment period to the board, commission, or regulatory program being evaluated, the chapter subject to repeal shall be automatically reenacted for a period of one year. If the legislative auditor receives written comments from the board, commission, or department of regulatory agencies, the legislative auditor shall append the written comments to each copy of the evaluation report prior to submission to the legislature."

**SECTION 4.** The effect of the first section of this Act is the postponement of all sunset reports for one year. During the one year hiatus, the legislative auditor will not be evaluating boards or submitting reports pursuant to Chapter 26H.

During legislative review of earlier auditor's sunset reports, the boards have alleged that the fault was not in the board but in the department of regulatory agencies. They complained, particularly, about the complaint handling process and felt that the delays in complaint handling were due to the department and not the board. Complaints were also heard regarding testing and levels of staff support.

The legislature finds that future sunset reports would be more meaningful if we first address the relationship between the boards and the department. The legislative auditor is, therefore, directed to use the hiatus created by this Act to prepare an evaluation of the department of regulatory agencies regulated industries program and related functions, including but not limited to its interface with the office of consumer protection. The evaluation shall be submitted to the legislature prior to the convening of the 1982 session; provided that the department of regulatory agencies be provided thirty days to review the report prior to it being submitted to the legislature. The legislative auditor shall append any written comments received from the department to the report.

**SECTION 5.** All acts passed by the legislature during this Regular Session of 1981, whether enacted before or after the effective date of this Act, shall be amended to conform with this Act.

**SECTION 6.** Statutory material to be repealed is bracketed. New material is underscored.\*

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

(Approved June 2, 1981.)

ACT 88

S.B. NO. 816

A Bill for an Act Relating to Horizontal Property Regime.

*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- Designation of additional areas.** Designation of additional areas to be common elements or subject to common expenses after the initial filing of the

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\*Except as to Section 1, the text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

bylaws or declaration shall require the approval of ninety per cent of the apartment owners; provided that if the developer discloses to the initial buyer in writing that additional areas will be designated as common elements pursuant to an incremental or phased project, this requirement shall not apply as to those additional areas."

SECTION 2. Chapter 514A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§514A- Notification of cost increases in common elements.** The manager or board of directors shall notify the apartment owners in writing of increases in the cost of common expenses at least thirty days prior to such an increase in cost to the apartment owners."

SECTION 3. New statutory material is underscored.\*

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

(Approved June 2, 1981.)

ACT 89

H.B. NO. 14

A Bill for an Act Relating to Insurance Contracts.

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

SECTION 1. The purpose of this Act is to establish minimum readability standards for life, disability, credit life, credit disability, and homeowners insurance contracts and motor vehicle no-fault insurance contracts covering personally-owned private passenger motor vehicles delivered or issued for delivery in this State.

This Act is not intended to alter the risks assumed by insurers subject to the Act, nor to change their obligation to comply with the provisions of other insurance laws relating to life, disability, credit life, credit disability, homeowners, and motor vehicle no-fault insurance. This Act is not intended to prevent flexibility and innovation in the development of contract forms or content nor to require standard contract forms or content.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

## **"CHAPTER READABILITY OF INSURANCE CONTRACTS**

**§ -1 Definitions.** As used in this chapter:

- (1) "Commissioner" means the state insurance commissioner.
- (2) "Contract" means any policy of life, disability, credit life, credit disability, and homeowners insurance, and motor vehicle no-fault insurance covering personally owned or personally leased private passenger motor vehicles prepared for delivery by an insurer.
- (3) "Flesch reading ease test" means the test set forth in section -4.

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

- (4) "Insurer" means any company, corporation, exchange, society, or association organized on the stock, mutual, assessment, or fraternal plan of insurance and authorized under the insurance laws of this State to issue life, disability, credit life, credit disability, homeowners, and motor vehicle no-fault insurance, including but not limited to fraternal benefit societies, nonprofit health service corporations, nonprofit hospital service corporations, and health maintenance organizations.
- (5) "Text" includes all printed material in the contract except:
  - (A) The insurer's name and address;
  - (B) The name, number, or title of the contract;
  - (C) The table of contents or index;
  - (D) Any captions or subcaptions;
  - (E) Any specification pages, schedules, or tables;
  - (F) Any language required by federal law, regulation, or agency interpretation or any written certification to exclude such language;
  - (G) Any language required by any collective bargaining agreement;
  - (H) Any medical terminology; and
  - (I) Any definitions.

**§ -2 General readability requirements.** Notwithstanding any other law to the contrary, no contract shall be delivered or issued for delivery in this State unless:

- (1) The text achieves a minimum score of forty on the Flesch reading ease test or an equivalent score on any other comparable test prescribed by the commissioner under section -3(a);
- (2) The contract is printed, except for specification pages, schedules, and tables, in not less than ten point type, one point leaded;
- (3) The style, arrangement, and general appearance of the contract gives no undue prominence to any endorsements, riders, or other portions of the text; and
- (4) A table of contents or index of principal sections is provided with the contract when the text consists of more than three thousand words printed on three or less pages or when the text has more than three pages regardless of the total number of printed words.

**§ -3 Required reading test; authorization and availability.** (a) Every insurer shall use the Flesch reading ease test to determine the readability of any contract required by section -2(1). Whenever the commissioner determines that the Flesch reading ease test is inappropriate for the purposes of section -2(1), the commissioner shall prescribe an alternative comparable test to be used by the insurer.

(b) The commissioner shall provide each insurer with a copy of the Flesch reading ease test. Whenever an alternative test is prescribed, the commissioner shall provide a copy of the test, accompanied by a set of instructions explaining the manner in which such test shall be conducted, to each insurer.

**§ -4 Flesch reading ease test; procedures.** (a) Whenever the Flesch reading ease test is used, its reading score shall be computed as follows:

- (1) The number of words and sentences in the text shall be counted and the total number of words divided by the total number of sentences; and
- (2) The resulting figure shall be multiplied by a factor of 1.015; then

- (3) The total number of syllables shall be counted and then divided by the total number of words; and
- (4) The resulting figure shall be multiplied by a factor of 84.6; then
- (5) The figures computed in paragraphs (2) and (4) shall be added together and the resulting sum subtracted from 206.835 to yield the Flesch reading ease score.
- (b) For the purpose of subsection (a), the following procedures shall be used:
- (1) Each contract consisting of ten thousand words or less shall be analyzed in its entirety by the method prescribed in subsection (a);
- (2) Each contract consisting of more than ten thousand words may be analyzed by applying the method prescribed in subsection (a) to two, two-hundred word samples separated by a minimum of ten printed lines on each page of the contract;
- (3) All riders, endorsements, applications, and other forms may be scored with the contract or scored as separate forms;
- (4) Numbers and letters, when separated by spaces, a contraction, or a hyphenated word shall be counted as one word;
- (5) A unit of words ending with a period, semicolon, or colon, excluding headings and captions, shall be counted as one sentence;
- (6) Whenever an accepted dictionary indicates that a word has two or more acceptable pronunciations, the pronunciation having the fewer number of syllables may be used. Syllable, as used in this paragraph, means a unit of spoken language consisting of one or more letters of a word as divided by an accepted dictionary.

**§ -5 Flesch reading ease score; lower score authorized; when.** The commissioner may authorize a score lower than the minimum Flesch reading ease score required in section -2(1) when the commissioner determines that the lower score:

- (1) Will provide a more accurate indication of the readability of the contract;
- (2) Is warranted by the nature of a particular contract form, type, or class of contract forms; or
- (3) Is the result of any language required by state law, regulation, or agency interpretation.

**§ -6 Filing and certification of contracts.** Every insurer shall file a copy of the contract with the commissioner. The contract shall be accompanied by a certificate signed by an officer of the insurer stating that the contract meets the minimum Flesch reading ease score required in section -2(1). Whenever the score is lower than the minimum Flesch reading ease score required in section -2(1), the certificate shall indicate the lower score and request the contract to be approved under section -5. In determining the accuracy of any certificate, the commissioner may require the insurer to submit any additional information.

**§ -7 Approval of contracts.** Any contract meeting the requirements of sections -2 and -6 shall be approved for delivery, notwithstanding the provision of any other laws specifying the content of contracts, whenever the contract provides protection not less favorable than that required by such laws.

**§ -8 Exemptions of certain contracts.** The provisions of this chapter shall not apply to:

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- (1) Any contract which is a security subject to federal jurisdiction;
- (2) Any group contract covering a group of one thousand or more lives at date of issue, other than a group credit life or credit disability contract, but any individual certificate issued under a group contract delivered or issued for delivery in this State shall not be exempt;
- (3) Any group annuity contract which funds a pension, profit-sharing, or deferred compensation plan;
- (4) Any form used in connection with, as a conversion from, as an addition to, or in exchange under, a contractual provision for a contract delivered or issued for delivery on a form approved or permitted to be issued prior to the dates required in section -9; or
- (5) The renewal of a contract delivered or issued for delivery prior to the dates required in section -9.

**§ -9 Applicability of chapter; effective dates.** This chapter shall apply to all contracts filed after June 30, 1983. No contract shall be delivered or issued for delivery in this State after June 30, 1984, unless the contract meets the requirements of this chapter or has been approved by the commissioner. Any contract approved or permitted to be issued prior to July 1, 1984 is exempt from refiling for approval and may continue to be lawfully delivered or issued for delivery in this State; provided a list of such contracts identified by contract number and accompanied by a signed certificate in the manner prescribed in section -6 is filed with the commissioner."

**SECTION 3.** Chapter 487A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**§487A- Exempt transactions.** This chapter shall not apply to any contract of insurance issued in this State."

**SECTION 4.** New statutory material is underscored.\*

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

(Approved June 2, 1981.)

ACT 90

H.B. NO. 73

A Bill for an Act Relating to the Hawaiian Homes Commission Act.

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

**SECTION 1.** Section 207, Hawaiian Homes Commission Act 1920, as amended, is amended by amending subsection (a) to read as follows:

"(a) The department is authorized to lease to native Hawaiians the right to the use and occupancy of a tract or tracts of Hawaiian home lands within the following acreage limits per each lessee: (1) not less than one nor more than forty acres of agri-

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

culture lands or lands used for aquaculture purposes; or (2) not less than one hundred nor more than five hundred acres of first-class pastoral lands; or (3) not less than two hundred and fifty nor more than one thousand acres of second-class pastoral lands; or (4) not less than forty nor more than one hundred acres of irrigated pastoral lands; (5) not more than one acre of any class of land to be used as a residence lot; provided that in the case of any existing lease of a farm lot in the Kalanianaole Settlement on Molokai, a residence lot may exceed one acre but shall not exceed four acres in area, the location of such area to be selected by the department; provided further that a lease granted to any lessee may include two detached farm lots or aquaculture lots, as the case may be, located on the same island and within a reasonable distance of each other, one of which, to be designated by the department, shall be occupied by the lessee as his home, the gross acreage of both lots not to exceed the maximum acreage of an agricultural, pastoral, or aquaculture lot, as the case may be, as provided in this section; provided further that the department may designate the location of the homesite on residence lots less than 10,000 square feet."

SECTION 2. Section 208, Hawaiian Homes Commission Act 1920, as amended, is amended to read as follows:

**"§208. Conditions of leases.** Each lease made under the authority granted the department by section 207 of this Act, and the tract in respect to which the lease is made, shall be deemed subject to the following conditions, whether or not stipulated in the lease:

- (1) The original lessee shall be a native Hawaiian, not less than twenty-one years of age. In case two lessees either original or in succession marry, they shall choose the lease to be retained, and the remaining lease shall be transferred, quit claimed, or canceled in accordance with the provisions of succeeding sections.
- (2) The lessee shall pay a rental of \$1 a year for the tract and the lease shall be for a term of ninety-nine years.
- (3) The lessee shall occupy and commence to use or cultivate the tract as his home or farm or occupy and commence to use the tract for aquaculture purposes, as the case may be, within one year after the lease is made.
- (4) The lessee shall thereafter, for at least such part of each year as the department shall by regulation prescribe, so occupy and use or cultivate the tract on his own behalf.
- (5) The lessee shall not in any manner transfer to, or mortgage, pledge, or otherwise hold for the benefit of, any other person or group of persons or organizations of any kind, except a native Hawaiian or Hawaiians, and then only upon the approval of the department, or agree so to transfer, mortgage, pledge, or otherwise hold, his interest in the tract. Such interest shall not, except in pursuance of such a transfer, mortgage, or pledge to or holding for or agreement with a native Hawaiian or Hawaiians approved of by the department, or for any indebtedness due the department or for taxes, or for any other indebtedness the payment of which has been assured by the department, including loans from other agencies where such loans have been approved by the department, be subject to attachment, levy, or sale upon court process. The lessee shall not sublet his inter-

est in the tract or improvements thereon.

- (6) The lessee shall pay all taxes assessed upon the tract and improvements thereon. The department may in its discretion pay such taxes and have a lien therefor as provided by section 216 of this Act.
- (7) The lessee shall perform such other conditions, not in conflict with any provision of this Act, as the department may stipulate in the lease; provided that an original lessee shall be exempt from all taxes for the first seven years from date of lease."

SECTION 3. Section 209, Hawaiian Homes Commission Act 1920, as amended, is amended by amending subsection (1) to read as follows:

"(1) Upon the death of the lessee, his interest in the tract or tracts and the improvements thereon, including growing crops and aquacultural stock (either on the tract or in any collective contract or program to which the lessee is a party by virtue of his interest in the tract or tracts), shall vest in the relatives of the decedent as provided in this paragraph. From the following relatives of the lessee, husband and wife, children, widows or widowers of the children, grandchildren, brothers and sisters, widows or widowers of the brothers and sisters, or nieces and nephews, the lessee shall designate the person or persons to whom he directs his interest in the tract or tracts to vest upon his death. Such person or persons must be qualified to be a lessee of Hawaiian home lands; provided that Hawaiian blood requirements shall not apply to the descendants of those who are not native Hawaiians but who were entitled to the leased lands under the provisions of section 3 of the Act of May 16, 1934 (48 Stat. 777, 779), as amended; provided further that such person or persons need not be twenty-one years of age. Such designation shall be in writing, shall be specified at the time of execution of such lease with a right in such lessee in similar manner to change such beneficiary at any time and shall be filed with the department and approved by the department in order to be effective to vest such interests in the successor or successors so named.

In the absence of such a designation as approved by the department, the department shall select from the relatives of the lessee in order named above as limited by the foregoing paragraph one or more persons who are qualified to be lessees of Hawaiian home lands, except as hereinabove provided, as the successor or successors of the lessee's interest in the tract or tracts, and upon the death of the lessee, his interest shall vest in the person or persons so selected. The department may select such a successor or successors after the death of the lessee, and the rights to the use and occupancy of the tract or tracts may be made effective as of the date of the death of such lessee.

In the case of the death of a lessee leaving no such relative qualified to be a lessee of Hawaiian home lands, the land subject to the lease shall resume its status as unleased Hawaiian home lands and the department is authorized to lease such land to a native Hawaiian or Hawaiians as provided in this Act.

Upon the death of a lessee leaving no such relative qualified to be a lessee of Hawaiian home lands, or the cancellation of a lease by the department, or the surrender of a lease by the lessee, the department shall appraise the value of all such improvements and growing crops or improvements and aquacultural stock, as the case may be, and shall pay to the legal representative of the deceased lessee, or to the

previous lessee, as the case may be, the value thereof, less any indebtedness to the department, or for taxes, or for any other indebtedness the payment of which has been assured by the department, from the deceased lessee or the previous lessee. Such payments shall be made out of the loan fund and shall be considered an advance therefrom reimbursable out of payments made by the successor or successors to the tract involved.

Such appraisal shall be made by three appraisers, one of which shall be named by the department, one by the previous lessee or the legal representative of the deceased lessee, as the case may be, and the third shall be selected by the two appraisers hereinbefore mentioned."

SECTION 4. Section 213, Hawaiian Homes Commission Act 1920, as amended, is amended by amending subsection (a) to read as follows:

"(a) There are established in the treasury of the State seven revolving funds, to be known respectively as the Hawaiian home loan fund, the additional receipts loan fund, the Hawaiian home general loan fund, the Hawaiian home replacement loan fund, the Hawaiian home repair loan fund, the Hawaiian home farm loan fund, and the Hawaiian home operating fund.

(1) Hawaiian home loan fund. Thirty per cent of the state receipts derived from the leasing of cultivated sugarcane lands under any other provision of law or from water licenses shall be deposited into this fund. The aggregate amount of this fund including:

- (A) The outstanding principal of all loans, advances, and transfers which have been made to other funds for which this fund has not been or need not be reimbursed; and
- (B) The installments of principal paid by the lessees upon loans made to them from this fund, or payments representing reimbursements, on account of advances, but not including interests on such loans or advances,

shall not exceed \$5,000,000. The moneys in this fund shall be available for the purposes enumerated in section 214 of this Act.

That portion of the thirty per cent of the state receipts derived from the leasing of cultivated sugarcane lands under any other provision of law or from water licenses, in excess of the present ceiling in the Hawaiian home loan fund of \$5,000,000, which amount is called "additional receipts," shall be transferred to the Hawaiian home development fund, to the additional receipts loan fund, and the Hawaiian home education fund as follows: fifteen per cent to the additional receipts loan fund; thirteen per cent to the Hawaiian home development fund; and seventy-two per cent to the Hawaiian home education fund; provided that until June 30, 1979, the aggregate amount so transferred shall not exceed the maximum amount of \$5,000,000, which maximum amount shall be increased to \$5,000,000 from and after July 1, 1979.

- (2) Additional receipts loan fund. Moneys transferred to this fund, installments of principal paid by the lessees upon loans made to them from this fund, or as payments representing reimbursement on account of advances, but not including interest on such loans or advances, shall be

- used for the purposes enumerated in section 214 of this Act.
- (3) Hawaiian home general loan fund. Moneys appropriated by the legislature for the construction of homes but not otherwise set aside for a particular fund, excluding moneys appropriated for construction of replacement homes; moneys transferred from the Hawaiian loan interest fund; and installments of principal paid by the lessees upon loans made to them from this fund, or as payments representing reimbursements on account of advances, but not including interest on such loans or advances; shall be deposited to this fund. The moneys in the fund shall be used for purposes enumerated in section 214 of this Act.
  - (4) Hawaiian home replacement loan fund. The moneys in this fund shall be used to make loans to lessees to construct replacement homes upon their residence lots. Moneys appropriated by the legislature for replacement home construction loans; moneys transferred from the Hawaiian loan interest fund; installments of principal paid by the lessees upon loans made to them from this fund; and moneys transferred from other funds or accounts by legislative authorization shall be deposited into this fund.
  - (5) Hawaiian home repair loan fund. Moneys appropriated to this fund by the legislature; moneys transferred from the Hawaiian loan interest fund; and installments of principal paid by the lessees upon loans made to them from this fund shall be deposited to this fund. The moneys in this fund shall be used to make loans in amounts not in excess of \$10,000 to lessees for repairs to their existing homes and for additions to such homes.
  - (6) Hawaiian home farm loan fund. Moneys appropriated to this fund by the legislature; moneys transferred from the Hawaiian loan interest fund; and installments of principal paid by the lessees upon loans made to them from this fund shall be deposited to this fund. The moneys in this fund shall be used to make loans not in excess of \$35,000 to lessees of agricultural tracts and tracts used for aquaculture leased under section 207 of this Act.
  - (7) Hawaiian home operating fund. The interest transferred from the Hawaiian home loan fund, all fees received by the department from any other source, and moneys transferred from the Hawaiian loan interest fund, except moneys received by the Hawaiian home administration account, shall be directly deposited into the Hawaiian home operating fund. The moneys in this fund shall be available:
    - (A) For construction and reconstruction of revenue-producing improvements intended to principally serve occupants of Hawaiian home lands, including acquisition or lease therefor of real property and interests therein, such as water rights or other interests;
    - (B) For payment into the treasury of the State of such amounts as are necessary to meet the interest and principal charges for state bonds issued for such revenue-producing improvements;
    - (C) For operation and maintenance of such improvements constructed from such funds or other funds;
    - (D) For the purchase of water or other utilities, goods, commodities, supplies, or equipment needed for services, or to be resold, rented,

or furnished on a charge basis to occupants of Hawaiian home lands; and

- (E) For appraisals, studies, consultants (architects, engineers), or any other staff services including those in section 202(b) required to implement, develop, and operate these projects. The moneys in this fund may be supplemented by other funds available for, or appropriated by the legislature for, the same purposes. In addition to such moneys, this fund, with the approval of the governor, may be supplemented by transfers, made on a loan basis from the Hawaiian home loan fund for a period not exceeding ten years; provided that the aggregated amount of such transfers outstanding at any one time shall not exceed \$500,000."

**SECTION 5.** Section 214, Hawaiian Homes Commission Act 1920, as amended, is amended by amending subsection (a) to read as follows:

"(a) The department may make loans from revolving funds to any lessee to whom, or any cooperative association to which, a lease or license has been issued under section 207 of this Act. Such loans may be made for the following purposes:

- (1) The repair or maintenance or purchase or erection of dwellings on any tract, and the undertaking of other permanent improvements thereon;
- (2) The purchase of livestock, swine, poultry, fowl, aquaculture stock, and farm and aquaculture equipment;
- (3) Otherwise assisting in the development of tracts and of farm, ranch, and aquaculture operations;
- (4) The cost of breaking up, planting, and cultivating land and harvesting crops, the cost of excavating or constructing aquaculture ponds and tanks, the purchase of seeds, fertilizers, feeds, insecticides, medicines, and chemicals for disease and pest control for animals, fish, shellfish, and crops, and the related supplies required for farm, ranch, and aquaculture operations, the erection of fences and other permanent improvements for farm, ranch and aquaculture purposes and the expense of marketing; and
- (5) To assist lessees in the operation or erection of theaters, garages, service stations, markets, stores, and other mercantile establishments, all of which shall be owned by lessees of the department or by organizations formed and controlled by the lessees."

**SECTION 6.** Section 215, Hawaiian Homes Commission Act 1920, as amended, is amended to read as follows:

**"§215. Conditions of loans.** Except as otherwise provided in section 213(a)(5), each contract of loan with the lessee or any successor or successors to his interest in the tract or with any agricultural, mercantile, or aquacultural cooperative association composed entirely of lessees shall be held subject to the following conditions whether or not stipulated in the contract loan:

- (1) At any one time, the outstanding amount of loans made to any lessee, or successor or successors in interest, for the repair, maintenance, purchase, and erection of a dwelling and related permanent improvements shall not exceed \$35,000, for the development and operation of a farm, ranch, or aquaculture operation shall not exceed \$35,000, except that when loans

are made to an agricultural or aquaculture cooperative association for the purposes stated in section 214(a)(4), the loan limit shall be determined by the department on the basis of the proposed operations and the available security of the association, and for the development and operation of a mercantile establishment shall not exceed the loan limit determined by the department on the basis of the proposed operations and the available security of the lessee or of the organization formed and controlled by lessees; provided that where, upon the death of a lessee leaving no relative qualified to be a lessee of Hawaiian home lands, or the cancellation of a lease by the department, or the surrender of a lease by the lessee, the department shall make the payment provided for by section 209(1), the amount of any such payment made to the legal representative of the deceased lessee, or to the previous lessee, as the case may be, shall be considered as part or all, as the case may be, of any such loan to the successor or successors, without limitation as to the above maximum amounts; provided further that in case of the death of a lessee, or cancellation of a lease by the department, or the surrender of a lease by the lessee, the successor or successors to the tract shall assume any outstanding loan or loans thereon, if any, without limitation as to the above maximum amounts but subject to paragraph (3) of this section.

- (2) The loans shall be repaid in periodic installments, such installments to be monthly, quarterly, semi-annual, or annual as may be determined by the department in each case. The term of any loan shall not exceed thirty years. Payments of any sum in addition to the required installments, or payment of the entire amount of the loan, may be made at any time within the term of the loan. All unpaid balances of principal shall bear interest at the rate of two and one-half per cent a year for loans made directly from the Hawaiian home-loan fund, or at the rate of two and one-half per cent or higher as established by law for other loans, payable periodically or upon demand by the department, as the department may determine. The payment of any installment due shall be postponed in whole or in part by the department for such reasons as it deems good and sufficient and until such later date as it deems advisable. Such postponed payments shall continue to bear interest on the unpaid principal at the rate established for the loan.
- (3) In the case of the death of a lessee the department shall, in any case, permit the successor or successors to the tract to assume the contract of loan subject to paragraph (1) of this section. In case of the cancellation of a lease by the department or the surrender of a lease by the lessee, the department may, at its option declare all installments upon the loan immediately due and payable, or permit the successor or successors to the tract to assume the contract of loan subject to paragraph (1) of this section. The department may, in such cases where the successor or successors to the tract assume the contract of loan, waive the payment, wholly or in part, of interest already due and delinquent upon the loan, or postpone the payment of any installment thereon, wholly or in part, until such later dates as it deems advisable. Such postponed payments shall,

however, continue to bear interest on the unpaid principal at the rate established for the loan. Further, the department may, if it deems it advisable and for the best interests of the lessees, write off and cancel, wholly or in part, the contract of loan of the deceased lessee, or previous lessee, as the case may be, where such loans are delinquent and deemed uncollectible. Such write-offs and cancellation shall be made only after an appraisal of all improvements and growing crops or improvements and aquaculture stock, as the case may be, on the tract involved, such appraisal to be made in the manner and as provided for by section 209(1). In every case, the amount of such appraisal, or any part thereof, shall be considered as part or all, as the case may be, of any loan to such successor or successors, subject to paragraph (1) of this section.

- (4) No part of the moneys loaned shall be devoted to any purpose other than those for which the loan is made.
- (5) The borrower or the successor to his interest shall comply with such other conditions, not in conflict with any provision of this title, as the department may stipulate in the contract of loan.
- (6) The borrower or the successor to his interest shall comply with the conditions enumerated in section 208, and with the provisions of section 209 of this title in respect to the lease of any tract.
- (7) Whenever the department shall determine that a borrower is delinquent in the payment of any indebtedness to the department, it may require such borrower to execute an assignment to it, not to exceed, however, the amount of the total indebtedness of such borrower, including the indebtedness to others the payment of which has been assured by the department of all moneys due or to become due to such borrower by reason of any agreement or contract, collective or otherwise, to which the borrower is a party. Failure to execute such an assignment when requested by the department shall be sufficient ground for cancellation of the borrower's lease or interest therein."

SECTION 7. Section 216, Hawaiian Homes Commission Act 1920, as amended, is amended as follows:

1. By amending subsection (a) to read as follows:

"(a) The department may require the borrower to insure, in such amount as the department may prescribe, any livestock, aquaculture stock, swine, poultry, fowl, machinery, equipment, dwellings, and permanent improvements purchased or constructed out of any moneys loaned or assured by the department; or, in lieu thereof, the department may directly take out such insurance and add the cost thereof to the amount of principal payable under the loan."

2. By amending subsections (c) and (d) to read as follows:

"(c) The department shall have a first lien upon the borrower's or lessee's interest in any lease, growing crops, aquaculture stock, either on his tract or share in any collective contract or program, livestock, swine, poultry, fowl, aquaculture stock, machinery, and equipment purchased with moneys loaned by the department, and in any dwellings or other permanent improvements on any leasehold tract, to the

amount of all principal and interest due and unpaid and of all taxes and insurance and improvements paid by the department, and any other indebtedness of the borrower, the payment of which has been assured by the department. Such lien shall have priority over any other obligation for which the property subject to the lien may be security.

(d) The department may, subject to this Act and procedures established by rule, enforce any lien by declaring the borrower's interest in the property subject to the lien to be forfeited, any lease held by the borrower canceled and shall thereupon order such leasehold premises vacated and the property subject to the lien surrendered within a reasonable time. The right to the use and occupancy of the Hawaiian home lands contained in such lease shall thereupon vest in the department, and the department may take possession of the premises covered therein and the improvements and growing crops or improvements and aquaculture stock thereon; provided that the department shall pay to the borrower any difference which may be due him after the appraisal provided for in section 209 has been made."

SECTION 8. Section 219, Hawaiian Homes Commission Act 1920, as amended, is amended to read as follows:

**"§219. Agricultural and aquacultural experts.** The department is authorized to employ agricultural and aquacultural experts at such compensation and in such number as it deems necessary. The annual expenditures for such compensation shall not exceed \$6,000. It shall be the duty of such agricultural and aquacultural experts to instruct and advise the lessee of any tract or the successor to the lessee's interest therein as to the best methods of diversified farming and stock raising and aquaculture operations and such other matters as will tend successfully to accomplish the purposes of this title."

SECTION 9. Section 219.1, Hawaiian Homes Commission Act 1920, as amended, is amended to read as follows:

**"§219.1. General assistance.** The department is authorized to carry on any activities it deems necessary to assist the lessees in obtaining maximum utilization of the leased lands, including taking any steps necessary to develop these lands for their highest and best use commensurate with the purposes for which the land is being leased as provided for in section 207, and assisting the lessees in all phases of farming, ranching, and aquaculture operations and the marketing of their agricultural or aquacultural produce and livestock."

SECTION 10. Section 221, Hawaiian Homes Commission Act 1920, as amended, by amending subsections (b) and (c) to read as follows:

"(b) All water licenses issued after the passage of this Act shall be deemed subject to the condition, whether or not stipulated in the license, that the licensee shall, upon the demand of the department, grant to it the right to use, free of all charge, any water which the department deems necessary adequately to supply the livestock, aquaculture operations, or domestic needs of individuals upon any tract.

(c) In order adequately to supply livestock, the aquaculture operations, or the domestic needs of individuals upon any tract, the department is authorized (1) to use, free of all charge, government-owned water not covered by any water license or covered by a water license issued after the passage of this Act or covered by a water

license issued previous to the passage of this Act but containing a reservation of such water for the benefit of the public, and (2) to contract with any person for the right to use or to acquire, under eminent domain proceedings similar, as near as may be, to the proceedings provided in respect to land by sections 101-10 to 101-34, Hawaii Revised Statutes, the right to use any privately owned surplus water or any government-owned surplus water covered by a water license issued previous to the passage of this Act, but not containing a reservation of such water for the benefit of the public. Any such requirement shall be held to be for a public use and purpose. The department may institute the eminent domain proceedings in its own name."

SECTION 11. The provisions of these legislative amendments are declared to be severable, and if any section, sentence, clause, or phrase of the legislative amendments or any of them, or the application thereof to any person or circumstances is held ineffective because there is a requirement of having the consent of the United States to take effect, then, that portion only shall take effect upon the granting of consent by the United States and the effectiveness of the remainder of these legislative amendments or the application thereof shall not be affected.

SECTION 12. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 13. This Act shall take effect upon its approval.

(Approved June 2, 1981.)

ACT 91

H.B. NO. 328

A Bill for an Act Relating to Trade Regulations.

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

SECTION 1. Section 480-3, Hawaii Revised Statutes, is amended to read as follows:

**"§480-3 Interpretation.** This chapter shall be construed in accordance with judicial interpretations of similar federal antitrust statutes."

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 2, 1981.)

ACT 92

H.B. NO. 585

A Bill for an Act Relating to Corporations Acting as Guardians.

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

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 93

SECTION 1. Section 406-4, Hawaii Revised Statutes, is amended to read as follows:

**"§406-4 Corporations acting as personal representatives, etc.** Except as provided in section 560:3-601 and in section 554-2 no corporation or joint-stock company, except trust companies doing business under this chapter and except banks authorized to engage in a trust business, shall act as personal representative, guardian of the property, assignee, or receiver, or shall engage in the business of acting as trustee for the management and investment of funds of other persons, or shall continue to do business with the word "trust" or "trustee" in its corporate name, under penalty of \$10 for every day that it so acts or engages in business. The penalty may be recovered by the director of regulatory agencies in a civil action before any court of competent jurisdiction."

SECTION 2. Section 560:5-311, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The family court may appoint any competent person or any non-profit agency or corporation, public or private, as guardian of the person of an incapacitated person and in the selection thereof, the family court shall in all cases consider the best interests of the ward."

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

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

(Approved June 2, 1981.)

## ACT 93

H.B. NO. 733

A Bill for an Act Relating to Emergency Medical Services.

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

SECTION 1. Section 321-221, Hawaii Revised Statutes, is amended to read as follows:

**"§321-221 Findings and purpose.** The legislature finds that the establishment of a state comprehensive emergency medical services system is a matter of compelling state interest, to protect and preserve the health of the people of the State. A system designed to reduce medical emergency deaths, injuries, and permanent long-term disability through the implementation of a fully integrated, cohesive network of components, the legislature further finds, will best serve the health needs of the people. Accordingly, the purpose of this part is to establish and maintain a state comprehensive emergency medical services system throughout the State, and to fix the responsibility for the administration of this state system which shall provide for the arrangement of personnel, facilities, and equipment for the effective and coordinated delivery of health care services under emergency condi-

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

tions whether occurring as the result of a patient's condition or of natural disasters or other causes. The system shall provide for personnel, personnel training, communications, emergency transportation, facilities, coordination with emergency medical and critical care services, coordination and use of available public safety agencies, promotion of consumer participation, accessibility to care, mandatory standard medical record keeping, consumer information and education, independent review and evaluation, disaster linkage, mutual aid agreements, and other components necessary to meet the purposes of this part."

SECTION 2. Section 321-222, Hawaii Revised Statutes, is amended by amending the definition of "State system" to read as follows:

"(4) "State system" means the state comprehensive pre-hospital emergency medical services system."

SECTION 3. Section 321-225, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The advisory committee shall be composed of sixteen members: three non-voting ex-officio members, who shall be the director of transportation, the adjutant general, and the administrator of the state health planning and development agency, or the designated representatives thereof, and thirteen members representing all counties of the State and who shall be appointed by the governor subject to section 26-34 as follows:

- (1) Five members who shall be physicians experienced in the conduct and delivery of emergency medical services; provided that at least two shall be engaged in the full time practice of emergency medicine and be board eligible or board certified by the American Board of Emergency Medicine;
- (2) Four members who shall be consumers of health care and who shall have no connection with or relationship to the health care system of the State and who shall be representative of all counties;
- (3) Four members of allied health professions related to emergency medical services.

The members of the advisory committee shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties, including travel expenses. The chairperson of the advisory committee shall be elected by the members from among their numbers. A majority of the members of the advisory committee shall constitute a quorum for the conduct of business of the advisory committee. A majority vote of the members present at a meeting at which a quorum is established shall be necessary to validate any action of the committee."

SECTION 4. Section 321-228, Hawaii Revised Statutes, is amended to read as follows:

**“§321-228 Emergency medical services; counties.** The department of health shall determine, in consultation with the advisory committee under section 321-225, the levels of emergency medical services which shall be implemented in each county. The department of health may contract to provide emergency medical services or any necessary component of a county emergency services system in conformance with the state system. In the event any county shall apply to the department to operate

## **ACT 94**

emergency medical ambulance services within the respective county, the department of health may contract with the county for the provision of such services. The department shall operate emergency medical ambulance services or contract with a private agency in those counties which do not apply to it under this section. Any county or private agency contracting to provide emergency medical ambulance services under this section shall be required by the department to implement such services in a manner and at a level consistent with the levels determined under this section."

**SECTION 5.** Section 321-229, Hawaii Revised Statutes, is amended to read as follows:

**"§321-229 Emergency medical services personnel, training programs.** The department of health shall be responsible for the training of basic life support and advance life support personnel and may contract for such training with accredited community colleges, colleges, and universities, and with professional medical organizations recognized by the American Medical Association. The basic life support and advance life support training programs shall be based on a medical model.

**SECTION 6.** Section 321-230, Hawaii Revised Statutes, is amended to read as follows:

**"§321-230 Technical assistance, data collection, evaluation.** The department of health may contract for technical assistance and consultation, including but not limited to categorization, data collection, and evaluation appropriate to the needs of the state system.

For the purposes of this section, "categorization" means systematic identification of the readiness and capabilities of hospitals and their staffs to adequately, expeditiously, and efficiently receive and treat emergency patients."

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

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

(Approved June 2, 1981.)

**ACT 94**

**H.B. NO. 741**

A Bill for an Act Relating to Discriminatory Employment Practices.

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

**SECTION 1.** The purpose of this Act is to extend coverage of Part I of Chapter 378, Hawaii Revised Statutes, to employees of the State and local governments, to provide equal treatment to females in the workforce who are disabled because of pregnancy, childbirth, and related medical conditions, and to spell out policies and procedures in the area of enforcement.

**SECTION 2.** Chapter 378, Hawaii Revised Statutes, is amended by repealing

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

Part I in its entirety and by adding a new Part I to read:

## **PART I. DISCRIMINATORY PRACTICES**

### **§378-1 Definitions.** As used herein:

“Arrest and court record” includes any information about an individual having been questioned, apprehended, taken into custody or detention, held for investigation, charged with an offense, served a summons, arrested with or without a warrant, tried, or convicted pursuant to any law enforcement or military authority.

“Because of sex” shall include, but is not limited to, because of pregnancy, childbirth, or related medical conditions; and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other individuals not so affected but similar in their ability or inability to work.

“Department” means the department of labor and industrial relations.

“Director” means the director of the department of labor and industrial relations.

“Employer” means any person, including the State or any of its political subdivisions and any agent of such person, having one or more employees, but shall not include the United States.

“Employment” means any service performed by an individual for another person under any contract of hire, express or implied, oral or written, whether lawfully or unlawfully entered into. Employment does not include services by an individual employed as a domestic in the home of any person.

“Employment agency” means any person engaged in the business of providing employment information, procuring employment for applicants, or providing employees for placement with employers upon request.

“Labor organization” means any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection.

“Marital status” means the state of being married or being single.

“Person” means one or more individuals, and includes, but is not limited to, partnership, associations, or corporations, legal representatives, trustees, trustees in bankruptcy, receivers, or the State or any of its political subdivisions.

“Physical handicap” means a substantial physical impairment where such handicap is verified by medical finding and appears reasonably certain to continue throughout the lifetime of the individual without substantial improvement.

**§378-2 Discriminatory practices made unlawful; offenses defined.** It shall be an unlawful discriminatory practice:

- (1) For an employer to refuse to hire or employ or to bar or discharge from employment, or otherwise to discriminate against any individual in compensation or in the terms, conditions, or privileges of employment because of race, sex, age, religion, color, ancestry, physical handicap, marital status, or arrest and court record;
- (2) For an employment agency to fail or refuse to refer for employment, or to classify or otherwise to discriminate against, any individual because of race, sex, age, religion, color, ancestry, physical handicap, marital status,

- or arrest and court record;
- (3) For any employer or employment agency to print, circulate, or cause to be printed or circulated any statement, advertisement, or publication or to use any form of application for employment or to make any inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification, or discrimination because of race, sex, age, religion, color, ancestry, physical handicap, marital status, or arrest and court record;
  - (4) For any labor organization to exclude or expel from its membership any individual or to discriminate in any way against any of its members, employer, or employees because of race, sex, age, religion, color, ancestry, physical handicap, marital status, or arrest and court record;
  - (5) For any employer, labor organization, or employment agency to discharge, expel, or otherwise discriminate against any individual because he has opposed any practice forbidden by this part or because he has filed a complaint, testified, or assisted in any proceeding respecting the discriminatory practices prohibited under this part;
  - (6) For any person whether an employer, employee, or not, to aid, abet, incite, compel, or coerce the doing of any of the discriminatory practices forbidden by this part, or to attempt to do so;
  - (7) For any employer or labor organization to refuse to enter into an apprenticeship agreement, as defined in section 372-2, because of the race, sex, age, religion, color, ancestry, physical handicap, marital status, or arrest and court record of an apprentice; provided that no apprentice shall be less than sixteen years of age;
  - (8) For any employer to violate the provisions of section 121-43 relating to nonforfeiture for absence by members of the national guard.

**§378-3 Exceptions.** Nothing in this part shall be deemed to:

- (1) Repeal or affect any law or ordinance or government rule or regulation having the force and effect of law;
- (2) Prohibit or prevent the establishment and maintenance of bona fide occupational qualifications reasonably necessary to the normal operation of a particular business or enterprise, and which have a substantial relationship to the functions and responsibilities of the prospective or continued employment;
- (3) Prohibit or prevent an employer, employment agency, or a labor organization from refusing to hire or refer or from discharging any individual for reasons relating to the ability of the individual to perform the work in question;
- (4) Affect the operation of the terms or conditions of any bona fide retirement, pension, employee benefit, or insurance plan;
- (5) Prohibit or prevent any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised, or controlled by or in connection with a religious organization, from giving preference to individuals of the same religion or denomination or from making such selection as is calculated by the organization to promote the religious principles for which it is

established or maintained.

- (6) Conflict with or affect the application of security regulations in employment established by the United States or the State;
- (7) Require the employer to execute unreasonable structural changes or expensive equipment alterations to accommodate the employment of a handicapped person.

**§378-4 Enforcement jurisdiction; complaint against unlawful discrimination.**

(a) The department shall have jurisdiction over the subject of discriminatory practices made unlawful by this part. Any individual claiming to be aggrieved by an alleged unlawful discriminatory practice may file with the department a verified complaint in writing which shall state the name and address of the person, employer, labor organization, or employment agency alleged to have committed the unlawful discriminatory practice complained of and which shall set forth the particulars thereof and contain such other information as may be required by the department. The attorney general, or the department upon its own initiative, may, in like manner, make and file such complaint.

(b) A complaint may be filed on behalf of a class by the attorney general or the department, and a complaint so filed may be investigated, conciliated, and litigated on a class action basis.

(c) No complaint shall be filed after the expiration of ninety days after the date upon which the alleged unlawful discriminatory practice occurred.

**§378-5 Power of department to prevent unlawful discrimination.** (a) After the filing of any complaint, or whenever it appears to the department that an unlawful discriminatory practice may have been committed, the department shall make an investigation in connection therewith. At any time after the filing of a complaint but prior to the issuance of a determination as to whether there is or is not reasonable cause to believe that this part has been violated, the parties may agree to resolve the complaint through a predetermination settlement.

(b) In the event that the department determines after such investigation that there is reasonable cause to believe that this part has been violated, the department shall immediately endeavor to eliminate any such alleged unlawful discriminatory practice by informal methods of conference, conciliation, and persuasion.

(c) Where the department has been unable to secure from the respondent a conciliation agreement acceptable to the department, the department shall demand that the respondent cease such unlawful discriminatory practice. The department's determination that a final conciliation demand is to be made shall be subject to reconsideration by the department on its own initiative but shall not be subject to judicial review. The department may order appropriate affirmative action including, but not limited to, hiring, reinstatement, or upgrading of employees, with or without back pay, or restoration to membership in any respondent labor organization, as, in the judgment of the department, will effectuate the purpose of this part, and including a requirement for reporting on the manner of compliance.

(d) The department may commence a civil action in circuit court seeking appropriate relief. In a civil action brought pursuant to this subsection:

- (1) The complainant shall have the right to intervene;
- (2) The director may join various complainants in one cause of action;

- (3) The director shall not be required to pay the filing fee or other costs or fees of any nature or to file a bond or other security of any nature in connection with such action or with proceedings supplementary thereto, or as a condition precedent to the availability to the director of any process in aid of such action or proceedings;
- (4) In no event shall any action be brought more than three years after the complaint to which the action relates was filed with the department; provided, that the running of the said three-year period shall be suspended during the life of the conciliation agreement.
- (e) Notice of right to sue.
- (1) The department may issue a right to sue upon written request of the complainant;
- (2) Within ninety days after receipt of a notice of right to sue, the complainant may bring a civil action under this part;
- (3) The department may intervene in a civil action brought pursuant to this subsection if the case is of general importance.
- (f) In an action brought pursuant to section 378-5(d) or section 378-5(e), if the court finds that a respondent has engaged in or is engaging in any unlawful discriminatory practice as defined in this part, the court may enjoin the respondent from engaging in such unlawful discriminatory practice and order such affirmative action as may be appropriate, which may include, but is not limited to, reinstatement, hiring, or upgrading of employees, with or without back pay, or restoration of membership in any respondent labor organization, or any other equitable relief as the court deems appropriate. Back pay liability shall not accrue from a date more than two years prior to the filing of the complaint with the department.
- (g) In an action brought pursuant to section 378-5(d) or section 378-5(e), if any judgment obtained by the director or by the complainant against the respondent remains unsatisfied for a period of thirty days, the director or the complainant, may request the circuit court to compel the respondent to comply with the judgment, including, but not limited to, an order directing the respondent to cease doing business until the respondent has complied with the judgment.
- (h) Whenever it appears to the director that a person, employer, labor organization, or employment agency is engaged in any act or practice which constitutes or will constitute a violation of this part, or any related regulation, the director may bring an action, in the circuit court of the circuit in which it is charged the act or practice complained of occurred, to enjoin the act or practice and to enforce compliance with this part or with the regulation, and upon a proper showing, a permanent or temporary injunction or decree or restraining order shall be granted without bond.
- (i) It is an unlawful discriminatory practice for a party to a predetermination settlement or conciliation agreement made pursuant to this part to violate the terms of the settlement or agreement.
- (j) In any action brought under this part, the court shall in addition to any judgment awarded to the plaintiff or plaintiffs, allow costs of action, including costs of fees of any nature, and reasonable attorney's fees, to be paid by the defendant.

**§378-6 Inspection; investigation; records.** (a) In connection with an investigation of a complaint filed under this part, or whenever it appears to the department that an unlawful discriminatory practice may have been or is being committed, the

director or his authorized representative shall have access to the premises of the parties or persons reasonably connected thereto, records, documents, and other material relevant to the complaint and shall have the right to examine, photograph, and copy such material, and may question such employees and make such investigation to determine whether any person has violated this part or any rule or regulation issued hereunder or which may aid in the enforcement of this part.

- (b) Every employer, employment agency, and labor organization shall:
  - (1) Make and keep records relevant to this part, and
  - (2) Make such reports therefrom, as the department shall prescribe by regulation or order.

**§378-7 Oaths; subpoenas; immunities.** (a) The director or his authorized representative may administer oaths, require answers to interrogatories, take or cause to be taken the depositions of parties or witnesses, and may issue subpoenas or subpoenas duces tecum to compel the attendance and testimony of witnesses or the production of books, payrolls, records, correspondence, documents, or any other material relating to any matter under investigation.

(b) If a person fails to comply with a subpoena issued under this section, any circuit court, upon application of the director or his authorized representative, may issue an order requiring compliance.

(c) No person shall be excused from attending and testifying or from producing books, payrolls, records, correspondence, documents, or other material in obedience to the subpoena or subpoena duces tecum of the director or his authorized representative, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

**§378-8 Rules and regulations.** The department shall make such rules and regulations, not inconsistent with this part as in the judgment of the department seem appropriate for the carrying out of this part and for the efficient administration thereof.

**§378-9 Penalties.** Whoever intentionally resists, prevents, impedes, or interferes with the department or any of its agents or representatives in the performance of duties pursuant to this part, or who in any manner intentionally violates an order of the department, shall be fined not more than \$500, or imprisoned for not more than ninety days, or both."

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

(Approved June 2, 1981.)

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

SECTION 1. Section 485-4, Hawaii Revised Statutes, is amended to read:

**“§485-4 Exempt securities.** The following securities are exempt from sections 485-8 and 485-25(a)(7):

- (1) Any security (including a revenue obligation) issued or guaranteed by the United States, any state or territory, any political subdivision of a state or territory, or any agency or corporate or other instrumentality of one or more of the foregoing, or any certificate of deposit for any of the foregoing;
- (2) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of such province, any agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor;
- (3) Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank organized under the laws of the United States, or any bank, savings institution, or trust company organized and supervised under the laws of any state or territory or any investment certificate issued by an industrial loan company duly licensed under the industrial loan law of the State of Hawaii;
- (4) Any security issued by and representing an interest in or a debt of, or guaranteed by, any federal savings and loan association or any building and loan or similar association organized under the laws of any state or territory and authorized to do business in the State;
- (5) Any security issued by and representing an interest in or a debt of, or guaranteed by, any insurance company organized under the laws of any state or territory and authorized to do business in the State;
- (6) Any security issued or guaranteed by any federal credit union, or any credit union or similar association organized and supervised under the laws of the State;
- (7) Any security issued or guaranteed by any common carrier, public utility, or holding company which is (A) subject to the jurisdiction of the Interstate Commerce Commission; (B) a registered holding company under the Public Utility Holding Company Act of 1935 or a subsidiary of such a company within the meaning of that Act; (C) regulated in respect of its rates and charges by a governmental authority of the United States or any state or territory; or (D) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States or any state or territory;
- (8) Any security listed or approved for listing upon notice of issuance on any exchange registered or exempted under the Securities Exchange Act of 1934, as amended; any other security of the same issuer which is of senior or substantially equal rank; any security called for by subscription rights or warrants so listed or approved; or any warrant or right to purchase or subscribe for any of the foregoing;

- (9) Any security issued by any issuer organized and operated not for private profit but exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic, or reformatory purposes, or as a chamber of commerce or trade or professional association;
- (10) Any commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal;
- (11) Any investment contract issued in connection with an employees' stock purchase, savings, pension, profit-sharing, or similar benefit plan[, if the commissioner is notified in writing thirty days before the inception of the plan];
- (12) Any option on a commodity futures contract subject to regulation under the Commodity Exchange Act[.];
- (13) Any security issued by an "investment company" as defined by and registered under the "Investment Company Act of 1940" (15 U.S.C. §80a)."

SECTION 2. Section 485-14, Hawaii Revised Statutes, is amended by amending subsection (j) to read:

"(j) Issuers as dealers. Any issuer of a security required to be registered under this chapter selling such securities (other than in exempt transactions as defined in section 485-6), and any issuer of an exempt security as defined in section 485-4(9) and (10) offering such securities (other than (1) in exempt transactions as defined in section 485-6, or (2) through a dealer registered pursuant to this chapter) shall file with the commissioner a bond or deposit securities or cash in an amount, based on the total capitalization, to be determined by the commissioner in his discretion, which amount, however, shall not be less than \$5,000, nor more than \$25,000, subject also to the same conditions as herein prescribed in the case of dealers, and may appoint salesmen in the manner herein prescribed in the case of dealers."

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

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

(Approved June 2, 1981.)

A Bill for an Act Relating to Motor and Other Vehicles.

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

SECTION 1. Section 290-11, Hawaii Revised Statutes, is amended to read as follows:

**"§290-11 Vehicles left unattended on private and public property; sale or disposition of abandoned vehicles.** (a) Notwithstanding any other provision of this chapter, any vehicle left unattended on private or public property without authoriza-

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tion of the owner or occupant of the property, may be towed away at the expense of the owner of the vehicle, by order of the owner, occupant, or person in charge of the property; provided that there is posted a notice prohibiting vehicles to park on the property without authorization. The notice shall state where the vehicle will be towed and held. The notice shall be of such size and be placed in a location reasonably calculated to call the sign to the attention of potential parkers.

(b) Towing companies engaged by the owner, occupant, or person in charge of the property shall charge no more than \$25 a tow, \$37.50 for a tow using a dolly and \$3.50 for each twenty-four hour period of storage or fraction thereof. The towing company shall determine the name of the legal owner and the registered owner of the vehicle from the department of transportation or the county department of finance. The legal owner and the registered owner shall be notified in writing at the address on record with the department of transportation or with the county department of finance by registered or certified mail of the location of the vehicle, together with a description of the vehicle, within a reasonable period not to exceed twenty days of the tow. The notice shall state that if the vehicle is not recovered within thirty days after the mailing of the notice, the vehicle shall be deemed abandoned and will be sold or disposed of as junk. Where the owners have not been so notified then the owner may recover his car from the towing company without paying tow or storage fees; provided that the notice need not be sent to a legal or registered owner or any person with an unrecorded interest in the vehicle whose name or address cannot be determined. A mail receipt signed by the registered owner is *prima facie* evidence of notification. A person who has been charged in excess of the charges permitted under this section may sue for damages sustained, and, if the judgment is for the plaintiff, the court shall award the plaintiff a sum not to exceed the amount of said damages and reasonable attorney's fees together with the cost of suit.

(c) When a vehicle is not recovered within thirty days after the mailing of the notice, it shall be deemed abandoned and the owner of the towing company, or his authorized representative, after one public advertisement in a newspaper of general circulation in the State, may negotiate a sale of the vehicle or dispose of it as junk.

(d) The authorized seller of the vehicle shall be entitled to the proceeds of the sale to the extent that compensation is due him for services rendered in respect to the vehicle, including reasonable and customary charges for towing, handling, storage, and the cost of the notices and advertising required by this part. Any remaining balance shall be forwarded to the legal or registered owner of the vehicle if he can be found. If he cannot be found, the balance shall be deposited with the director of finance of the State and shall be paid out to the legal or registered owner of the vehicle if a proper claim is filed therefor within one year from the execution of the sales agreement. If no claim is made within the year allowed, the money shall become a state realization.

(e) The transfer of title and interest by sale under this part is a transfer by operation of law; provided that if the certificate of ownership or registration is unavailable, a bill of sale executed by an authorized seller is satisfactory evidence authorizing the transfer of the title or interest.

(f) Each county by ordinance may enact additional restrictions to this section or may enact criminal sanctions in this area as required."

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 2, 1981.)

**ACT 97**

**H.B. NO. 1025**

A Bill for an Act Relating to Bail.

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

**SECTION 1.** Section 804-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Any person charged with a criminal offense shall be bailable by sufficient sureties; provided that no bail shall be allowed where the charge is for a serious crime where the proof is evident and the presumption great, and

- (1) The offense is punishable by imprisonment for life not subject to parole; or
- (2) The defendant has been previously convicted of a serious crime within the ten-year period immediately preceding the date of the charge against him; or
- (3) The defendant is already on bail on a felony charge; or
- (4) The defendant is on parole."

**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 2, 1981.)

**ACT 98**

**H.B. NO. 1530**

A Bill for an Act Relating to Agricultural Product Promotion and Market Development.

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

**SECTION 1.** Agriculture has long been and continues to be one of Hawaii's most important industries. Only two other industries, the visitor industry and defense-related federal spending, generate more revenues than agriculture. While sugar and pineapple have long been the pillars of Hawaiian agriculture, recent decades and years have seen the spectacular development of diversified agriculture. Generally, diversified agriculture includes all agricultural production other than sugar and pineapple. According to data reported in "Statistics of Hawaiian Agriculture 1979", cash receipts for diversified agriculture in 1979 reached a record new high of \$152,000,000.

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

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Many local farmers and ranchers and others in the public sector bearing statutory responsibility for the support and development of agriculture continue to voice the belief that the future of Hawaiian agriculture generally and diversified agriculture in particular will be largely determined by the quality of market development and product promotion programs.

The importance of market development and product promotion has been recognized by the legislature as well. During the 1978 regular session, the legislature adopted House Concurrent Resolution (HCR) No. 107, H.D. 2. The HCR called attention to the need for greater efficiency and effectiveness in agricultural market development and product promotion and requested the governor's agriculture coordinating committee (GACC) to establish policy guidelines in these areas. In response to this legislative request, the GACC submitted a twenty-six page report which contains a number of significant findings. One of the findings was that there is duplication of responsibility arising from the provisions of statutory law and administrative rules and regulations. In this regard, the following were noted: (1) the department of planning and economic development (DPED) conducts surveys and feasibility studies; investigates market demand, sales goals, and industry production and capital requirements; and plans for the implementation of development programs; (2) the college of tropical agriculture and human resources (CTAHR), University of Hawaii, directs the development of a complete industry analysis, commodity by commodity; (3) the DPED and CTAHR both work with associations of agricultural producers; and (4) there is duplication in the assignment of functional activity of industry promotion under the provisions of the Hawaii Revised Statutes.

The "State Agriculture Plan and Technical Reference Document October 1980", a state functional plan, submitted by the department of agriculture pursuant to the requirements of chapter 226, Hawaii Revised Statutes, also addresses the subject of product promotion and market development. Among the pertinent recommendations found in the plan are the two following: (1) designates the governor's agriculture coordinating committee to serve as the implementing organization in adopting criteria for selecting agricultural industry problems for state resource allocation; and (2) base resource allocation in support of agricultural production and marketing on the problems and priorities determined by the industry analysis currently being performed and designate the governor's agriculture coordinating committee as the implementing organization.

The legislature finds that the duplication found to be existing in product promotion and market development is detrimental to the goals for agricultural development. The legislature further concurs with the recommendations that the governor's agriculture coordinating committee be given expanded authority and responsibility in product promotion and market development.

The purpose of this Act is to eliminate such duplication as now exists and to otherwise increase the efficiency and effectiveness of resource allocation as it relates to agricultural product promotion and market development.

SECTION 2. Section 26-18, Hawaii Revised Statutes, is amended to read as follows:

**"§26-18 Department of planning and economic development.** The department of planning and economic development shall be headed by a single executive to

be known as the director of planning and economic development.

The department shall encourage the promotion of the products of agriculture and the development and promotion of industry and tourism, through the gathering and dissemination of information of use to enterprisers, the offering of expert consultative services, the planning of fairs, the administering of business credit programs, and other programs established by law. With respect to the promotion of agricultural products, the department's activities shall be consistent with the policies, programs, and activities of the governor's agriculture coordinating committee.

There shall be within the department of planning the economic development a commission to be known as the board of planning and economic development which shall sit in an advisory capacity to the director of planning and economic development on matters within the jurisdiction of the department of planning and economic development. The board shall consist of nine members, one from each senatorial district and three at large.

The functions and authority heretofore exercised by the economic planning and coordination authority (except the research function transferred to the department of planning and research), the planning office with respect to tourism development as described in section 201-27, and the fair commission of Hawaii with respect to the planning of fairs are transferred to the department of planning and economic development established by this chapter.

The land use commission is placed in the department of planning and economic development for administrative purposes. The functions, duties, and powers, subject to the administrative control of the director of planning and economic development, and the composition of the commission shall be as heretofore provided by law.

The department of planning and economic development shall be empowered to establish, modify, or abolish statistical boundaries for cities, towns, or villages in the State. The department shall publish annually an up-to-date list of cities, towns, and villages for which statistical boundaries have been set."

SECTION 3. Section 164-2, Hawaii Revised Statutes, is amended to read as follows:

**"§164-2 Powers and duties.** The governor's agriculture coordinating committee shall:

- (1) Prepare and propose to the governor a state agriculture policy which, upon approval of the governor, shall serve as a guide for agricultural development in the State. The policy shall include but not be limited to a statement of objectives in the following areas: (A) commercial production, (B) processing, (C) distribution, (D) transportation, (E) marketing, (F) agricultural land and water use, (G) agricultural growth, diversification, and self-sufficiency, (H) agricultural pollution, and (I) agricultural research;
- (2) Coordinate and monitor all state agencies in their duties and responsibilities with respect to agriculture or agriculture-related projects or programs with a view to effect agricultural development in this State as set forth in the state agriculture policy;
- (3) Coordinate all state agricultural activities as they relate to the federal

- and county governments, public and private organizations, and commercial enterprises;
- (4) Coordinate and review (A) the preparation of agriculture and agriculture-related programs and projects proposed by all state agencies for submittal to the governor, (B) the preparation and submission of all departmental budgets as they relate to agriculture, (C) the activities of all departments to ensure timely and efficient implementation of all authorized agriculture and agriculture-related programs;
  - (5) Assist the governor in developing programs, projects, and plans to promote optimal development of agriculture, including criteria to measure program effectiveness;
  - (6) Conduct systematic analysis of all existing and proposed agriculture and agriculture-related programs, including evaluation of program analysis conducted by state agencies relating to agriculture;
  - (7) Recommend to the governor programs including agricultural product promotion and agricultural development which represent the most effective allocation of resources for optimal development of agriculture;
  - (8) As the governor may determine, serve as members of all bodies established by the governor to consider allocation of state funds for agriculture or agriculture-related purposes;
  - (9) Contract for services when required for implementation of this chapter; and
  - (10) Perform such other services as may be required by the governor and the legislature.”

SECTION 4. Section 153-2, Hawaii Revised Statutes, is amended to read as follows:

**“§153-2 Hawaii agricultural products program.** There is hereby established the Hawaii agricultural products program to be administered by the board of agriculture. The program shall be consistent with the policies, programs, and activities relating to agricultural product promotion and market development established by the governor's agriculture coordinating committee.”

SECTION 5. Section 201-3, Hawaii Revised Statutes, is amended to read as follows:

**“§201-3 Specific research and promotional functions of the department.** Without prejudice to its general functions and duties the department of planning and economic development shall have specific functions in the following areas:

- (1) Agricultural development. The department shall (i) conduct surveys and feasibility studies to determine the need for and value of additional research in the production of agricultural commodities, and the processing and marketing of agricultural food products; (ii) promote an informational program directed to the consuming public both in Hawaii and in the mainland United States relative to the qualities of agricultural commodities produced in Hawaii and in the maximum utilization of same, including processed agricultural food products; and (iii) make grants to and contracts with appropriate agencies, firms, or individuals

for surveys, studies, research, and promotion. With respect to agricultural development, the department's activities shall be consistent with the policies, programs, and activities of the governor's agriculture coordinating committee.

- (2) Industrial development. The department shall determine through technical and economic surveys the profit potential of new or expanded industrial undertakings; develop through research projects and other means new and improved industrial products and processes; promote studies and surveys to determine consumer preference as to design and quality and to determine the best methods of packaging, transporting, and marketing the State's industrial products; disseminate information to assist the present industries of the State, to attract new industries to the State, and to encourage capital investment in present and new industries in the State; assist associations of producers and distributors of industrial products to introduce such products to consumers; and make such grants or contracts as may be necessary or advisable to accomplish the foregoing.
- (3) Land development. The department shall encourage the most productive use of all land in the State in accordance with a general plan developed by the department; encourage the improvement of land tenure practices on leased private lands; promote an informational program directed to landowners, producers of agricultural and industrial commodities, and the general public regarding the most efficient and most productive use of the lands in the State; and make such grants or contracts as may be necessary or advisable to accomplish the foregoing.
- (4) Credit development. The department shall conduct a continuing study of agricultural and industrial credit needs; encourage the development of additional private and public credit sources for agricultural and industrial enterprises; promote an informational program to acquaint financial institutions with agricultural and industrial credit needs and the potential for agricultural and industrial expansion, and inform producers of agricultural and industrial products as to the manner in which to qualify for loans; and make such grants or contracts as may be necessary or advisable to accomplish the foregoing.
- (5) Promotion. The department shall disseminate information developed for or by the department pertaining to economic development to assist present industry in the State, attract new industry and investments to the State, and assist new and emerging industry with good growth potential or prospects in jobs, exports, and new products. The industrial and economic promotional activities of the department may include the use of literature, advertising, demonstrations, displays, market testing, lectures, travel, motion picture and slide films, and such other promotional and publicity devices as may be appropriate."

SECTION 6. Section 201-4, Hawaii Revised Statutes, is amended to read as follows:

**“§201-4 Contracts.** The department of planning and economic development

may contract with qualified private and public agencies, associations, firms, or individuals within or without the State in pursuance of its duties and functions; provided that preference shall be given to contractors within the State; provided further that preference shall be given to qualified parties who agree to match department funds in whole or in part with funds, equipment, materials, or services; provided further that funds to assist associations of producers, processors, or distributors of agricultural or industrial products to introduce products which are new or inadequately known to consumers shall be matched by funds equal to at least forty per cent of the funds contracted for by the department or expenses incurred by it in behalf of the associations; provided further that in instances where the promotion program will benefit one or more of the commodity groups as a whole or where a new or fragile commodity association or industry has the potential for growth but is unable to contribute its full matching share, the department may waive matching fund requirements for the first three years of any contract, but shall require twenty per cent matching funds for the fourth year of any such contract, and forty per cent matching funds for the fifth and all subsequent years of any such contract. With respect to agricultural products and commodities, the department's activities shall be consistent with the policies, programs, and activities of the governor's agriculture coordinating committee.

The contracts shall be approved in writing by the department and shall specify the name of the contractor, the nature of the work to be performed, the manner in which funds may be expended, and such data as the state comptroller may require. The allocation of any such contract shall be presented to the state director of finance and expended by the state comptroller upon vouchers issued by the contractor and approved by the director of the department. No such contract shall be entered into by the department until all interested and qualified persons registered to do business in the State have been given a reasonable opportunity to submit their proposal of the manner in which the contract is to be performed and the results which can be achieved within the limit of the funds available, together with their qualifications to do the work.

When necessary to effectuate the purposes of this part, funds to state agencies may authorize expenditures for the purchase of machinery and equipment and the erection and conversion of structures, laboratories, and buildings within the State, which facilities shall be and remain under the jurisdiction of the agencies. Private agencies, associations, firms, or individuals shall provide all structures and equipment necessary to effectuate the purposes of funds made to them, in which cases the value which may be attributed to the use of the facilities shall be considered as matching funds. The department shall retain under its own jurisdiction only such furniture, office equipment, and other equipment as is necessary for administration purposes."

SECTION 7. Section 204-1, Hawaii Revised Statutes, is amended to read as follows:

**“§204-1 State fair.** The department of planning and economic development may cause to be held at some suitable place in the city and county of Honolulu on days which it may select, and at such times as may be deemed desirable in its discretion, a fair or exhibition for the purpose of showing and exhibiting mechanical, live-

stock, agricultural, and horticultural products of the State; provided that with respect to livestock, agricultural, and horticultural products, the department's activities shall be consistent with the policies, programs, and activities relating to agricultural product promotion and market development established by the governor's agriculture coordinating committee."

**SECTION 8.** All rights, powers, functions, and duties concerning agricultural product promotion and market development and state agricultural fairs of the department of planning and economic development may be transferred to such agency as the governor may designate.

**SECTION 9.** 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 planning and economic development relating to agricultural product promotion and market development functions may be transferred with the functions to which they relate to such agency as the governor may designate.

Additionally, up to two positions dealing with such functions may be transferred from the department of planning and economic development at the discretion of the governor, to such agency as may be designated by the governor. If such positions transfer is ordered by the governor, the personnel involved shall not be subjected to a loss of salary, benefits, privileges, or status, and the governor shall report on such transfer to the next legislature.

**SECTION 10.** Statutory material to be repealed is bracketed. New material is underscored.\*

**SECTION 11.** This Act shall take effect upon its approval.

(Approved June 2, 1981.)

A Bill for an Act Relating to Practicing Psychologists.

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

**SECTION 1.** Section 465-1, Hawaii Revised Statutes, is amended to read as follows:

**“§465-1 Definitions.** As used in this chapter:

- (1) “Board” means the board of certification for practicing psychologists.
- (2) “Director” means the director of regulatory agencies.
- (3) “Application fee”, “renewal fee”, “temporary permit fee”, and “examination fee” mean the fees in the schedule set forth in section 465-12.
- (4) “Psychologist” means a person who engages in the practice of psychology as hereinafter defined.

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 100

- (5) A person practices "psychology" who performs any professional service which consists of, requires, and is limited to the application of psychological principles, techniques, and instruments for the purpose of assessment, diagnosis and treatment of significant behavioral, emotional and mental disorders as defined by the most current diagnostic manual of the American Psychiatric Association; and for the purpose of the assessment, diagnosis and rehabilitation of organic brain syndromes."

SECTION 2. Section 465-13, Hawaii Revised Statutes, is amended to read as follows:

**"§465-13 Denial, suspension, revocation of certificate.** The board of certification for practicing psychologists shall refuse to grant a certificate to any applicant and may revoke or suspend any certificate upon any of the following grounds:

- (1) Professional misconduct or gross carelessness or manifest incapacity in the practice of psychology;
- (2) Habitual use of narcotic drugs or any other substance which impairs the intellect and judgment to such an extent as to incapacitate the applicant or certificate holder for the practice of psychology;
- (3) Habitual drunkenness;
- (4) Violation of this chapter;
- (5) Any unethical practice of psychology as defined by the board in accordance with its own rules and regulations."

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

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

(Approved June 8, 1981.)

ACT 100

S.B. NO. 1053

A Bill for an Act Relating to Elections.

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

SECTION 1. Chapter 11, Hawaii Revised Statutes, is amended as follows:

(1) Section 11-95, Hawaii Revised Statutes, is amended to read as follows:

**"§11-95 Employees entitled to leave on election day for voting.** Any voter shall on the day of the election be entitled to be absent from any service or employment in which such voter is then engaged or employed for a period of not more than two hours (excluding any lunch or rest periods) between the time of opening and closing the polls to allow two consecutive hours in which to vote. Such voter shall not because of such absence be liable to any penalty, nor shall there be any rescheduling of normal hours or any deduction made, on account of the absence, from any

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

usual salary or wages; provided that the foregoing shall not be applicable to any employee whose hours of employment are such that the employee has a period of two consecutive hours (excluding any lunch or rest periods) between the time of opening and closing the polls when the employee is not working for the employer. If, however, any employee fails to vote after taking time off for that purpose the employer, upon verification of that fact, may make appropriate deductions from the salary or wages of the employee for the period during which the employee is hereunder entitled to be absent from employment. Presentation of a voter's receipt by an employee to the employer shall constitute proof of voting by the employee. Any person violating this section shall be guilty of an offense under section 19-8."

(2) Section 11-133, Hawaii Revised Statutes, is amended to read as follows:

**"§11-133 Voting booths; placement of visual aids.** The precinct officials shall provide sufficient voting booths within the polling place at or in which the voters may conveniently cast their ballots. The booths shall be so arranged that in casting the ballots the voters are screened from the observation of others.

Visual aids shall be posted at or in each voting booth and in conspicuous places outside the polling place before the opening of the polls."

(3) Section 11-140, Hawaii Revised Statutes, is amended to read as follows:

**"§11-140 Spoiled ballots.** In elections using the paper ballot and electronic voting systems, if a voter spoils a ballot, the voter may obtain another upon returning the spoiled one. Before returning the spoiled ballot, the voter shall conform to the procedure promulgated by the chief election officer to retain the secrecy of the vote."

SECTION 2. Chapter 14, Hawaii Revised Statutes is amended as follows:

(1) Section 14-21, Hawaii Revised Statutes, is amended to read as follows:

**"§14-21 Nomination of presidential electors and alternates; certification; notification of nominees.** In each year when electors of president and vice president of the United States are to be chosen, each of the political parties or parties or groups qualified under section 11-113 shall hold a state party or group convention pursuant to the constitution, bylaws, and rules of the party or group; and nominate as candidates for its party or group as many electors, and a first and second alternate for each elector, of president and vice president of the United States as the State is then entitled. The electors and alternates shall be registered voters of the State. The names and addresses of the nominees shall be certified by the chairman and secretary of the convention of the respective parties or groups and submitted to the chief election officer not later than 4:30 p.m. on the sixtieth day prior to the general election of the same year. The chief election officer upon receipt thereof, shall immediately notify each of the nominees for elector and alternate elector of the nomination."

(2) Section 14-22, Hawaii Revised Statutes, is amended to read as follows:

**"§14-22 Contested nominations of presidential electors and alternates.** If more than one certificate of choice and selection of presidential electors and alternate electors of the same political party or group is filed with the chief election officer, as chairman of the contested presidential electors' committee hereby constituted, the chief election officer shall notify the state comptroller and attorney general, who are the remaining members of the committee, of the date, time, and

place of the hearing to be held for the purposes of making a determination of which set of electors and alternate electors were lawfully chosen and selected by the political party or group. Notice of the hearing shall be given to the chairman of the state central committee of each political party and the chairman of each party or group qualified under section 11-113, contestants for the positions of electors and alternate electors by written notice, and to all other interested parties by publication at least once in a newspaper of general circulation. A determination shall be made by the committee by majority vote not later than 4:30 p.m. on October 30 of the same year and the determination shall be final. Notice of the results shall be given to the nominees duly determined to have been chosen. The committee shall have all the powers enumerated in section 11-43."

(3) Section 14-24, Hawaii Revised Statutes, is amended to read as follows:

**"§14-24 Certificate of election, notice of meeting.** Not later than 4:30 p.m. on the last day in the month of the election, or as soon as the returns have been received from all counties in the State, if received before that time, the chief election officer shall certify to the governor the names of the presidential electors and alternates of the same political party or group as the candidates for president and vice president receiving the highest number of votes as elected as presidential electors and alternates. Thereupon the governor shall in accordance with the laws of the United States, communicate by registered mail under the seal of the State of Hawaii to the administrator of general services of the United States, the certificates of persons elected as presidential electors, setting forth the names of the electors and the total number of votes cast for each elector. The chief election officer shall thereupon, together with a notice of the time and place of the meeting of the electors, cause to issue and transmit to each elector and alternate a certificate of election signed by the governor in substantially the following form:

**CERTIFICATE OF ELECTION OF PRESIDENTIAL ELECTORS**

I, \_\_\_\_\_ Governor of the State of Hawaii, do hereby certify that \_\_\_\_\_, a member of the \_\_\_\_\_ party or group, was on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, duly elected a Presidential Elector for the State of Hawaii for the presidential election of 19\_\_\_\_\_.

**CERTIFICATE OF ELECTION OF  
ALTERNATE PRESIDENTIAL ELECTOR**

I, \_\_\_\_\_ Governor of the State of Hawaii, do hereby certify that \_\_\_\_\_, a member of the \_\_\_\_\_ party or group, was on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, duly elected \_\_\_\_\_ Alternate Presidential Elector for Presidential Elector \_\_\_\_\_ for the State of Hawaii for the presidential election of 19\_\_\_\_\_."

(4) Section 14-27, Hawaii Revised Statutes, is amended to read as follows:

**“§14-27 Filling vacancies of presidential electors.** In case of the death or absence of any elector chosen, or if the number of electors is deficient for any other reason, the vacancy or vacancies shall be filled by the alternates in the order of their numerical designation for their respective electors causing the vacancy or vacancies, and in the event that vacancy or vacancies still exist, then the electors present shall select from the members of the same political party or group as many persons as will supply the deficiency. Certificates for the alternates or substitutes as presidential electors shall be issued by the governor.”

(5) Section 14-28, Hawaii Revised Statutes, is amended to read as follows:

**“§14-28 Convening and voting for president and vice president; party vote.** The electors, when convened, if both candidates are alive, shall vote by ballot for that person for president and that person for vice president of the United States, who are, respectively, the candidates of the political party or group which they represent, one of whom, at least, is not an inhabitant of this State.”

SECTION 3. Section 17-6, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) Whenever any vacancy in the membership of the board of education occurs, the vacancy shall be filled as provided in this section.

(b) In the case of a vacancy, the term of which does not end at the time of the next succeeding general election:

- (1) If it occurs not later than on the thirtieth day prior to the next succeeding general election, the vacancy shall be filled for the unexpired term at the next succeeding general election. The chief election officer shall issue a proclamation designating the election for filling the vacancy. All candidates for the unexpired term shall file nomination papers not later than 4:30 p.m. on the thirtieth day prior to the general election (but if such day is a Saturday, Sunday, or holiday then not later than 4:30 p.m. on the first working day immediately preceding) and shall be elected in accordance with this title. Pending the election the governor shall make a temporary appointment to fill the vacancy and the person so appointed shall serve until the election of the person duly elected to fill such vacancy.
- (2) If it occurs after the thirtieth day prior to the next succeeding general election, the governor shall make an appointment to fill the vacancy for the unexpired term.”

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

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

(Approved June 8, 1981.)

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

**ACT 102**

**ACT 101**

**S.B. NO. 1114**

A Bill for an Act Relating to Chapter 80, Hawaii Revised Statutes.

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

**SECTION 1.** Section 80-4, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The hours of work and compensation of the fire-fighting members of the fire departments of the political subdivisions of the State shall be governed by the following provisions:

- (1) The maximum number of hours of work shall be an average of sixty-three hours of actual service which shall constitute an average work week and which shall be scheduled and computed on the basis of an eight-week cycle; provided that for fire-fighting members of the fire department who are required to work under unique and unusual situations, in a county with a population of one hundred thousand or less, the maximum number of hours may be reduced by the fire chief with the approval of the mayor;
- (2) The number of hours of each day's work shall be fixed from time to time by the head of the department; and
- (3) Notwithstanding any other law to the contrary, if any fire-fighting member of the fire departments of the political subdivisions of the State is required to report for duty on any state holiday designated by section 8-1, he shall receive in lieu of his straight time pay, payment in cash at the rate of two times his regular rate of pay for all hours of duty. The double time payment shall be in lieu of and not be in addition to his regular straight time pay.”

**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 8, 1981.)

**ACT 102**

**S.B. NO. 1145**

A Bill for an Act Relating to Chapter 11, Hawaii Revised Statutes.

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

**SECTION 1.** Section 11-191, Hawaii Revised Statutes, is amended to read as follows:

**“§11-191 Definitions.** When used in this subpart:

- (1) “Advertisement” means:

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

- (A) Any communication, exclusive of bumper stickers or other sundry items paid for by or on behalf of a candidate, which identifies a candidate directly or by implication or which advocates or supports the nomination for election, or election, of the candidate or advocates or supports his defeat; and
  - (B) Any communication, exclusive of bumper stickers or other sundry items paid for by or on behalf of a committee, which identifies an issue or question which appears or is reasonably certain to appear on the ballot at the next applicable election, or which advocates or supports the passage or defeat of the question or issue.
- (2) "Campaign treasurer" means a person appointed under section 11-198, and, unless expressly indicated otherwise, includes deputy campaign treasurers.
- (3) "Candidate" means an individual who seeks nomination for election, or election, to office. An individual is a candidate if he does any of the following:
- (A) Files nomination papers for an office for himself with the county clerk's office or with the chief election officer's office whichever is applicable; or
  - (B) Receives contributions in an aggregate amount of more than \$100, or makes or incurs any expenditures to bring about his nomination for election, or election, to office; provided that in no event shall a person be deemed a candidate by reason of the provisions set forth in this subparagraph and subparagraph (C) until January 1 of the year that person runs for election; or
  - (C) Gives his consent for any other person to receive contributions or make expenditures to aid his nomination for election, or election, to office.
- (4) "Candidate's committee" means a committee as defined in paragraph (6) which makes an expenditure or accepts a contribution in behalf of a candidate with the candidate's authorization.
- (5) "Commission" means the campaign spending commission.
- (6) "Committee" means:
- (A) Any organization or association which, or any individual who, accepts a contribution or makes an expenditure for or against any candidate, individual who files for nomination at a later date and becomes a candidate, or party, with or without the authorization of the candidate, individual, or party, or who accepts a contribution or makes an expenditure for or against any question or issue which appears or is reasonably certain to appear on the ballot at the next applicable election;
  - (B) Any organization or association which, or any individual who, raises or holds money or anything of value for a political purpose, with or without the consent or knowledge of any candidate, individual who files for nomination at a later date and becomes a candidate, or any party, and which subsequently contributes the money or anything of value to, or makes expenditures in behalf of,

- a candidate, individual who files for nomination at a later date and becomes a candidate, or party;
- (C) Notwithstanding any of the foregoing, the term "committee" shall not include any person making a contribution or expenditure of his own funds or anything of value which he originally acquired for his own use and not for the purpose of evading any provision of this subpart.
- (7) "Contribution" means:
- (A) A gift, subscription, deposit of money or anything of value, or cancellation of a debt or legal obligation and includes the purchase of tickets to fund raisers for the purpose of:
- (i) Influencing the nomination for election, or election, of any person to office;
- (ii) Influencing the outcome of any question or issue which appears or is reasonably certain to appear on the ballot at the next applicable election; or
- (iii) Use by any party for the purposes set out in clause (i) or (ii);
- (B) The payment, by any person other than a candidate or committee, of compensation for the personal services of another person which are rendered to the candidate or committee without charge or at an unreasonably low charge for the purposes set out in subparagraph (A);
- (C) A contract, promise, or agreement to make a contribution; provided that notwithstanding this subparagraph and subparagraphs (A) and (B), the term shall not include services or portions thereof voluntarily provided without reasonable compensation by individuals to or in behalf of a candidate or committee; or
- (D) Notwithstanding subparagraphs (A), (B), and (C), a candidate's expenditure of his own funds or the making of a loan or advance in the pursuit of his campaign shall not be a contribution for the purpose of this subpart but shall nevertheless be reportable as a campaign receipt.
- (8) "Earmarked funds" means contributions received by a committee or party on the condition that the funds be contributed to or expended on certain candidates, issues, or questions.
- (9) "Election" means any election for office or for determining a question or issue provided by law or ordinance.
- (10) "Expenditure" means:
- (A) Any purchase or transfer of money or anything of value, or promise or agreement to purchase or transfer money or anything of value, or payment incurred or made, or the use or consumption of a nonmonetary contribution for the purpose of:
- (i) Influencing the nomination for election, or election, of any person seeking nomination for election, or election, to office whether or not the person has filed his nomination paper;
- (ii) Influencing the outcome of any question or issue which appears or is reasonably certain to appear on the ballot at the

- next applicable election; or
  - (iii) Use by any party for the purposes set out in clause (i) or (ii);
- (B) The payment, by any person other than a candidate or committee, of compensation for the personal services of another person which are rendered to the candidate or committee for any of the purposes mentioned in subparagraph (A); or
- (C) The expenditure by a candidate of his own funds for the purposes set out in subparagraph (A).
- (11) "House bulletin" means a communication sponsored by any person in the regular course of publication for limited distribution primarily to its employees or members.
- (12) "Immediate family" means a candidate's spouse, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons.
- (13) "Individual" means a natural person.
- (14) "Matching payment period" means:
  - (A) For a primary election, from January 1 of the year of a general election through the day of the primary election, or nine months prior to a special primary or special election through the day of a special primary or special election; and
  - (B) For a general election, from the day after a primary or special primary election through the day of the general or special general election.
- (15) "Newspaper" means a publication of general distribution in the State issued once or more per month which is written and published in the State.
- (16) "Office" means any elective public or constitutional office excluding federal elective offices.
- (17) "Person" means an individual, partnership, committee, association, corporation, or labor union and its auxiliary committees.
- (18) "Political party" means any party which satisfies the requirements of section 11-61.
- (19) "Private contribution" means a monetary contribution other than from a candidate's own funds or from the Hawaii election campaign fund.
- (20) "Qualifying campaign contribution" means a monetary contribution of \$100 or less, and not more than \$100 of a person's total aggregate monetary contributions. Qualifying contributions do not include loans or in-kind contributions."

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 8, 1981.)

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

A Bill for an Act Relating to Chapter 237, Hawaii Revised Statutes.

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

SECTION 1. Section 237-13.5, Hawaii Revised Statutes, is amended to read as follows:

**"§237-13.5 Assessment on generated electricity.** Any other provision of the law to the contrary notwithstanding, the levy and assessment of the general excise tax on the gross proceeds from the sale of electric power to a public utility company for resale to the public, shall be made only as a tax on the business of a producer, at the rate assessed producers, under section 237-13(2)(A)."

SECTION 2. The department of taxation is hereby directed to study and analyze the effect of this Act on the various producers of electric power and report its findings thereon to the legislature at least ten days before the convening of the 1985 session of the legislature.

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

SECTION 4. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1980 and shall be repealed as of December 31, 1985.

(Approved June 8, 1981.)

A Bill for an Act Relating to Insurance.

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

SECTION 1. Chapter 431, Hawaii Revised Statutes, is amended by adding nine new sections to be appropriately designated and to read as follows:

**"§431- Definitions.** As used in sections 431- to 431- :

(1) "Applicant" means:

- (A) In the case of an individual Medicare supplement policy or subscriber contract, the person who seeks to contract for insurance benefits; and
- (B) In the case of a group Medicare supplement policy or subscriber contract, the proposed certificate holder;

(2) "Certificate" means any certificate issued under a group Medicare supplement policy, which policy is delivered or issued for delivery in this State;

(3) "Medicare supplement policy" means a group or individual policy of disability insurance or a group contract or individual subscriber contract of a nonprofit medical indemnity or hospital service association which is

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

advertised, marketed, or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical, or surgical expenses of persons eligible for Medicare by reason of age. The term does not include:

- (A) A policy or contract of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organization; or
  - (B) A policy or contract of any professional, trade, or occupational association for its members or former or retired members, or combination thereof, if such association:
    - (i) Is composed of individuals all of whom are actively engaged in the same profession, trade, or occupation;
    - (ii) Has been maintained in good faith for purposes other than obtaining insurance; and
    - (iii) Has been in existence for at least two years prior to the date of its initial offering of such policy or plan to its members;
  - (C) An individual policy or contract issued either pursuant to a conversion privilege under a policy or contract of a group or individual insurance when such group or individual policy or contract includes provisions which are inconsistent with the requirements of sections 431- to 431- or rule adopted thereunder, or issued to employees or members as additions to franchise plans in existence on the effective date of the applicable rule;
- (4) "Medicare" means Title XVIII of the federal Social Security Act, as amended.

**§431- Standards for policy provisions.** (a) The insurance commissioner shall issue reasonable rules to establish specific standards for policy provisions. Such standards shall be in addition to and in accordance with applicable laws of this State, including sections 431-463 to 431-498, and may cover, but shall not be limited to:

- (1) Terms of renewability;
- (2) Initial and subsequent conditions of eligibility;
- (3) Nonduplication of coverage;
- (4) Probationary periods;
- (5) Benefit limitations, exceptions, and reductions;
- (6) Elimination periods;
- (7) Requirements for replacement;
- (8) Recurrent conditions; and
- (9) Definition of terms.

(b) The insurance commissioner may issue reasonable rules that specify prohibited policy provisions not otherwise specifically authorized by law, which, in the opinion of the insurance commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or proposed for coverage under any Medicare supplement policy.

(c) Notwithstanding any other provision of law, a Medicare supplement policy shall not deny a claim for losses incurred more than six months after the effective date of coverage for a preexisting condition. The policy shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

**§431- Minimum standards for benefits.** The insurance commissioner shall issue reasonable rules to establish minimum standards for benefits under Medicare supplement policies.

**§431- Loss ratio standards.** Medicare supplement policies shall be expected to return to policyholders benefits which are reasonable in relation to the premium charged. The insurance commissioner shall issue reasonable rules to establish minimum standards for loss ratios of Medicare supplement policies on the basis of incurred claims experience and earned premiums for the entire period for which rates are computed to provide coverage and in accordance with accepted actuarial principles and practices. For the purposes of rules issued under this section, Medicare supplement policies issued as a result of solicitations of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be regarded as individual policies.

**§431- Disclosure standards.** (a) In order to provide for full and fair disclosure in the sale of Medicare supplement policies, no Medicare supplement policy shall be delivered or issued for delivery in this State and no certificate shall be delivered pursuant to a group medical supplement policy delivered or issued for delivery in this State unless an outline of coverage is delivered to the applicant at or prior to the time application is made.

(b) The insurance commissioner shall prescribe the format and content of the outline of coverage required by subsection (a). For the purposes of this section, "format" means style, arrangement, and overall appearance, including such items as the size, color, and prominence of type and the arrangement of text and captions. Such outline of coverage shall include:

- (1) A description of the principal benefits and coverage provided in the policy;
- (2) A statement of the exceptions, reductions, and limitations contained in the policy;
- (3) A statement of the renewal provisions including any reservation by the insurer of a right to change premiums; and
- (4) A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

(c) The insurance commissioner shall prescribe, by rule, a standard form and contents of an informational brochure for persons eligible for Medicare by reason of age which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the insurance commissioner may require, by rule, that the informational brochure be provided to any prospective insureds eligible for Medicare by reason of age concurrently with delivery of the outline of coverage.

With respect to direct response insurance policies, the insurance commissioner may require, by rule, that the prescribed brochure be provided upon request to any prospective insureds eligible for Medicare by reason of age, but in no event later than the time of policy delivery.

(d) The insurance commissioner may adopt reasonable rules for captions or notice requirements, determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not Medicare supplement coverages, for all disability insurance policies and subscriber contracts sold to persons eligible for Medicare by reason of age, other than:

- (1) Medicare supplement policies or subscriber contracts;
- (2) Disability income policies;
- (3) Basic, catastrophic, or major medical expense policies or subscriber contracts;
- (4) Single premium, nonrenewable policies or subscriber contracts; or
- (5) Other policies or subscriber contracts defined in section 431- .

(e) The insurance commissioner may further adopt reasonable rules to govern the full and fair disclosure of information in connection with the replacement of disability insurance policies, subscriber contracts, or certificates by persons eligible for Medicare by reason of age.

**§431- Notice of free examination.** Medicare supplement policies or certificates, other than those issued pursuant to direct response solicitation, shall have a notice prominently printed on the first page of the policy or attached thereto stating in substance that the applicant shall have the right to return the policy or certificate within ten days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason. Medicare supplement policies or certificates issued pursuant to a direct response solicitation to persons eligible for Medicare by reason of age shall have a notice prominently printed on the first page or attached thereto stating in substance that the applicant shall have the right to return the policy or certificate within thirty days of its delivery and to have the premium refunded if, after examination, the applicant is not satisfied for any reason.

**§431- Approval of forms.** (a) No Medicare supplement policy or certificate under a group Medicare supplement policy, that is subject to sections 431- to 431- shall be delivered or issued for delivery in this State, after the date specified in rules adopted by the insurance commissioner pursuant to such sections, unless the minimum standards of such rules are met or exceeded with regard to it, or unless the form of such policy is an approved form in accordance with this section.

(b) The insurer shall submit each such policy form and group certificate form, including the form of any riders or endorsements of applications which may be attached to or made a part of such form, and the schedule of premium rates therefor to the insurance commissioner. The insurance commissioner may require a certification from the insurer that, to the best of the certifier's knowledge and belief, such form meets the requirements of such rules and of all applicable Hawaii laws and rules. The insurance commissioner may also require the insurer to submit a certification by a qualified actuary that the premium rates, to the best of the actuary's knowledge and belief, are in accordance with the loss ratio standards adopted by rule

## ACT 105

under section 431-

- (c) The insurance commissioner may disapprove any such form or withdraw approval of a previously approved form if the insurance commissioner finds that:
  - (1) It is not in accordance with applicable laws and rules in any respect;
  - (2) It is or it contains provisions which are misleading, deceptive, inconsistent, or ambiguous; or
  - (3) The benefits are unreasonable in relation to the premium charge.
- (d) A policy form shall be deemed approved if it is in accordance with all applicable laws and rules, it has not been disapproved earlier than sixty-one days after the date of submission, it fully meets all submission requirements, and it is received by the insurance commissioner.
- (e) The insurance commissioner shall promptly give written notice to the insurer of the insurance commissioner's approval of a policy form or, if a form is disapproved or approval is withdrawn, of such disapproval or withdrawal together with the reasons for it and of the procedure by which the insurer may request and be granted a hearing on the merits of such action.
- (f) The insurance commissioner, by rule, may establish requirements and procedures for Medicare supplement policy form submission.

**§431- Applicability.** Sections 431- to 431- shall apply to disability insurance policies and group contracts and individual subscriber contracts of a nonprofit medical indemnity or hospital service association, which are delivered or issued for delivery in this State on or after the date specified in rules adopted by the insurance commissioner in accordance with those sections.

**§431- Rules.** All rules which the insurance commissioner adopts to implement sections 431- to 431- shall be adopted under chapter 91 and before July 1, 1982."

**SECTION 2.** Chapter 433, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§433- Health care coverage for senior citizens.** Sections 431- to 431- shall apply to nonprofit medical indemnity or hospital service associations. Such associations shall be exempt from the provisions of sections 431-463 to 431-498; provided that such exemption is in compliance with applicable federal statutes and regulations."

**SECTION 3.** New statutory material is underscored.\*

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

(Approved June 8, 1981.)

## ACT 105

H.B. NO. 32

A Bill for an Act Relating to the Job-Sharing Pilot Project in the Department of Education.

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

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

SECTION 1. The legislature finds that Act 150, Session Laws of Hawaii 1978, established a three-year pilot project in the department of education to test the feasibility of job-sharing. Act 134, Session Laws of Hawaii 1980, which amended Act 150 amended the pilot project design for the remaining year of the test period. The two major amendments (1) removed the restriction that only classroom teachers may apply, thereby enabling such personnel as school counselors and school librarians to participate in job-sharing; and (2) removed the restriction that only five per cent of the eligible personnel at any one school may participate.

The legislature finds that in view of the recent change in the pilot project design mandated by Act 134 and the need to adequately test the modified design, there is a need to extend the pilot project for an additional two years.

SECTION 2. Section 2, Act 150, Session Laws of Hawaii 1978, as amended by Act 134, Session Laws of Hawaii 1980, is amended to read as follows:

“SECTION 2. There is established a [three-year] five-year job-sharing pilot project to be conducted by the department of education for the 1978-79, 1979-80, [and] 1980-1981, 1981-82, and 1982-83 academic years; provided that the department of education shall not implement the pilot project without first carefully developing its plans, procedures, and guidelines and shall initiate the project to the extent practicable during the 1978-79 academic year. 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 positions resulting from the division of one full-time position shall constitute two job-sharing positions. The department of education shall devote no more than one hundred full-time, permanent positions to job-sharing, pursuant to this Act. The department shall administer the pilot project established by this Act, and shall, in consultation with the representatives of the appropriate bargaining units adopt guidelines for the implementation of this Act.”

SECTION 3. Section 3, Act 150, Session Laws of Hawaii 1978, as amended by Act 134, Session Laws of Hawaii 1980, is amended to read as follows:

“SECTION 3. The following shall constitute general requirements of the pilot project, and shall be followed in the implementation of this Act:

- (1) The superintendent of education shall announce the pilot project to all full-time, tenured, certificated personnel of the department excluding educational officers and shall solicit the voluntary requests of such personnel who may be interested in participating in the job-sharing pilot project.
- (2) The superintendent shall, in consultation with the recognized employee bargaining units, formulate and adopt guidelines for the implementation of this Act. Employees who respond to the announcement and others who may 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

superintendent. Those who qualify shall then be interviewed by a personnel officer of the department. Participation shall be for school years 1978-79, 1979-80, [or] 1980-81, 1981-82, or 1982-83, except as provided in paragraph (6) of this section.

- (3) Upon the selection of a permanent, full-time employee for job-sharing under this Act, the superintendent shall for the purposes of this Act, 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 hiring under this Act.
- (4) Persons hired to fill job-sharing positions shall be recruited through 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 is, for the purpose of this Act, 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 week, and with 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. Benefits that can be divided in one-half, such as number of days of sick leave, and are considered to be an equitable share when divided, shall be computed on that basis. Benefits that cannot be so divided, such as eligibility for membership in the public employees health plan shall be given to the job-sharers without such division, notwithstanding any contrary provision of chapter 87 or 88, Hawaii Revised Statutes. The newly hired job-sharer shall be excluded from collective bargaining as provided under chapter 89, Hawaii Revised Statutes.

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 the 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 tenured teachers 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. The granting of tenure shall be under applicable statutes. 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 tenure rights 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 on 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 to 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 education on the part of any person shall be filled 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 previous tenure, or other employee rights."

SECTION 4. Section 4, Act 150, Session Laws of Hawaii 1978, is amended to read as follows:

"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 ethnic, sex, and age composition of participants, and other pertinent data. The office of the legislative auditor shall also among other analyses identify factors which facilitated or made more difficult the implementation of this Act. The office of the legislative auditor shall submit status reports on its findings to the regular legislative sessions of 1979, 1980, and 1981, and may report on its findings and recommendations to the legislative session of 1982."

SECTION [5]†. Statutory material to be repealed is bracketed. New material is underscored.

SECTION [6]†. This Act shall take effect upon its approval.

(Approved June 8, 1981.)

A Bill for an Act Relating to Pornography.

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

SECTION 1. Section 712-1210, Hawaii Revised Statutes is amended to read as follows:

**"§712-1210 Definitions of terms in this part.** In this part, unless a different meaning is required:

†Numbers "5" and "6" substituted for "3" and "4" to correct manifest clerical error.

- (1) "Community standards" means the standards of the state.
- (2) "Disseminate" means to manufacture, issue, publish, sell, lend, distribute, transmit, exhibit, or present material or to offer or agree to do the same.
- (3) "Material" means any printed matter, visual representation, or sound recording, and includes but is not limited to books, magazines, motion picture films, pamphlets, newspapers, pictures, photographs, drawings, sculptures, and tape or wire recordings.
- (4) "Minor" means any person less than sixteen years old.
- (5) "Performance" means any play, motion picture film, dance, or other exhibition performed before an audience.
- (6) "Pornographic." Any material or performance is "pornographic" if all of the following coalesce:
  - (a) The average person, applying contemporary community standards would find that, taken as a whole, it appeals to the prurient interest.
  - (b) It depicts or describes sexual conduct in a patently offensive way.
  - (c) Taken as a whole, it lacks serious literary, artistic, political, or scientific merit.
- (7) "Pornographic for minors." Any material or performance is "pornographic for minors" if:
  - (a) It is primarily devoted to explicit and detailed narrative accounts of sexual excitement, sexual conduct, or sadomasochistic abuse; and
    - (i) It is presented in such a manner that the average person, applying contemporary community standards, would find that, taken as a whole, it appeals to a minor's prurient interest; and
    - (ii) Taken as a whole, it lacks serious literary, artistic, political, or scientific value; or
  - (b) It contains any photograph, drawing, or similar visual representation of any person of the age of puberty or older revealing such person with less than a fully opaque covering of his or her genitals and pubic area, or depicting such person in a state of sexual excitement or engaged in acts of sexual conduct or sadomasochistic abuse; and
    - (i) It is presented in such a manner that the average person, applying contemporary community standards, would find that, taken as a whole, it appeals to a minor's prurient interest; and
    - (ii) Taken as a whole, it lacks serious literary, artistic, political, or scientific value."
- (8) "Sexual conduct" means acts of masturbation, homosexuality, lesbianism, bestiality, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast or breasts of a female for the purpose of sexual stimulation, gratification, or perversion.
- (9) "Sexual excitement" means the condition of the human male or female genitals when in a state of sexual stimulation or arousal.

(10) "Sadomasochistic abuse" means flagellation or torture by or upon a person as an act of sexual stimulation or gratification."

SECTION 2. Section 712-1211, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) A person commits the offense of displaying indecent matter if† knowingly or recklessly displays on any sign, billboard, or other object visible from any street, highway, or public sidewalk, a photograph, drawing, sculpture, or similar visual representation of any person of the age of puberty or older:

- (a) Which reveals the person with less than a fully opaque covering over his or her genitals, pubic area, or buttocks, or depicting the person in a state of sexual excitement or engaged in an act of sexual conduct or sadomasochistic abuse; and
- (b) Which is presented in such manner as to exploit lust; and
- (c) Which lacks serious literary, artistic, political, or scientific value."

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

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

(Approved June 8, 1981.)

ACT 107

H.B. NO. 338

A Bill for an Act Relating to Voter Registration.

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

SECTION 1. Section 11-15, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) The clerk may designate a subordinate or subordinates to act in the clerk's place and stead in all matters covered by this section, provided that no candidate shall be eligible to serve as a subordinate."

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 8, 1981.)

ACT 108

H.B. NO. 526

A Bill for an Act Relating to Intoxicating Liquor.

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

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†In section prior to amendment, here appeared the word "he".

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 109

SECTION 1. Section 281-16, Hawaii Revised Statutes, is amended to read as follows:

**“§281-16 County liquor commission funds; disposition of realization; payment of expenses.** All fees and other moneys collected or received by each liquor commission under this chapter shall be paid not less than weekly into the general fund of the respective county or a special fund as provided by ordinance. All expenses of the commission, including any expenses and compensation of its members and expenses and salaries of its subordinates, shall be paid in the manner provided by ordinance.”

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 8, 1981.)

## ACT 109

H.B. NO. 564

A Bill for an Act Relating to Refund of Vehicular Weight Tax for Stolen Vehicles.

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

SECTION 1. Chapter 249, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§249- Tax for fraction of years; refunds for stolen vehicles.** (a) Any owner of a vehicle upon which has been paid the annual tax due and payable for the current registration year as required by sections 249-1 to 249-13 and 249-33, and which is stolen as defined by section 708-800 (19), shall be entitled to a refund of a portion of the tax, computed at the rate of eight and one-third per cent of the annual tax for each full month remaining in the registration year after the theft upon presenting to the director of finance an affidavit setting forth:

(1) Salient facts as to the theft; and

(2) If the vehicle is recovered, the facts relative to the recovery of the vehicle, together with the police report of the theft and such other relevant facts as may be required by the director of finance. Application for such refund shall not be made until after the end of the registration year for which the taxes have been paid.

(b) If a vehicle is stolen before the payment of the current tax thereon; and if the owner recovers the vehicle prior to the expiration of the current registration year, the owner shall thereafter be permitted to operate the vehicle only upon presenting to the director of finance:

(1) An affidavit setting forth salient facts as to the theft and recovery;

(2) The police report of the theft; and

(3) Payment of the current year's tax, less eight and one-third per cent of such tax for each full month between the theft and recovery of the vehicle, toge-

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

ther with any unpaid taxes for any prior year required under sections 249-1 to 249-13 if applicable;

provided that in no case shall the tax assessed and collected for any vehicle hereunder be less than \$1.

(c) Any tax or refund due and owing under this section upon the recovery of a stolen vehicle, and not paid when the owner begins operating such vehicle, shall become delinquent and a penalty as prescribed under section 249-10 shall be added to and become a part of the delinquent tax. No refunds shall be allowed after the end of the registration year following the theft of the vehicle."

**SECTION 2.** New statutory material is underscored.\*

**SECTION 3.** This Act shall take effect on January 1, 1982.

(Approved June 8, 1981.)

**ACT 110**

**H.B. NO. 567**

**A Bill for an Act Relating to Prostitution.**

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

**SECTION 1.** Section 712-1200, Hawaii Revised Statutes, is amended as follows:

**"§712-1200 Prostitution.** (1) A person commits the offense of prostitution if the person engages in, or agrees or offers to engage in, sexual conduct with another person in return for a fee.

(2) As used in subsection (1), "sexual conduct" means "sexual intercourse," "deviate sexual intercourse," or "sexual contact," as those terms are defined in section 707-700.

(3) Prostitution is a petty misdemeanor.

(4) Notwithstanding any other law to the contrary, a person convicted of committing the offense of prostitution shall be sentenced as follows:

(a) For the first offense, a fine of \$500 and the person may be sentenced to a term of imprisonment of not more than thirty days; provided, in the event the convicted person defaults in payment of the \$500 fine, and the default was not contumacious, the court may sentence the person to perform services for the community as authorized by section 706-605(1)(f), Hawaii Revised Statutes.

(b) For any subsequent offense, a fine of \$500 and a term of imprisonment of thirty days, without possibility of suspension of sentence or probation."

**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 8, 1981.)

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

A Bill for an Act Relating to Housing.

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

SECTION 1. Chapter 356, Hawaii Revised Statutes, is amended by adding a new part to read as follows:

### **"PART III. RENTAL ASSISTANCE PROGRAM**

**§356-301 Purpose; findings and determinations.** The legislature finds and declares that the health and general welfare of the people of the State require that the people of this State have safe and sanitary rental housing accommodations available at affordable rents; that a grave shortage in the number of such accommodations affordable by families and individuals of low and moderate income in the State exists; that it is essential that owners of rental housing accommodations be provided with appropriate additional means to assist in reducing the cost of rental housing accommodations to the people of the State; that it is the purpose of this Act to assist such owners in maintaining the rentals at levels affordable by families and individuals of low and moderate income by providing such owners with rental assistance payments which, with rentals received by tenants of low and moderate income, will provide such owners with limited but acceptable rates of return on their investments in rental housing accommodations; and that assisting such owners by entering into contracts with them which provide for rental assistance payments is a valid public purpose and in the public interest.

**§356-302 Definitions.** The following words or terms as used in this part 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 authority pursuant to the provisions of part II of chapter 356;
- (2) Is subject to a regulatory agreement with the authority;
- (3) Has not less than twenty per cent of the units in the project maintained for eligible tenants;
- (4) Has the remaining units, other than a unit reserved for a manager of the project, maintained for moderate income persons and families, as defined in section 356-206(b); and
- (5) Meets other qualifications as established by rules adopted by the authority.

"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 section 167(k)(3)(B) of the Internal Revenue Code of 1954, as amended.

"Owner" means the owner of an eligible project.

"Regulatory agreement" means an agreement between the authority 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

authority providing for periodic rental assistance payments for units in an eligible project.

**§356-303 Rental assistance fund.** (a) There is created a rental assistance fund to be administered by the authority.

(b) The aggregate principal sum in the rental assistance fund, which may without limitation include sums made available from any government program or grant, from private grants or contributions, or by appropriation, shall be invested by the authority in a manner which will preserve the principal sum and maximize the rate of return on investment of the fund; provided that any investment shall be consistent with section 356-31 but need not comply with section 36-21.

(c) Earnings on the investment of the rental assistance fund and amounts recovered by the authority pursuant to section 356-305(f) may be applied by the authority to payments under the rental assistance contracts.

**§356-304 Rental assistance contracts.** (a) The authority may enter into a rental assistance contract and a regulatory agreement with an owner of an eligible project.

(b) Prior to the execution of a rental assistance contract, the authority may execute an agreement to enter into a rental assistance contract with an owner, which agreement shall provide for the execution of a rental assistance contract upon satisfaction of the terms set forth in such agreement and otherwise established by the authority.

(c) The authority shall not enter into any rental assistance contract which would require the authority to make payments at any time in excess of the amount available at such time or times in the rental assistance fund pursuant to section 356-303 for the funding of such payments. Each rental assistance contract shall provide that rental assistance payments shall be made solely from the earnings on the investment of the rental assistance fund.

(d) A rental assistance contract shall be for a term of not less than ten years and shall not be for a term in excess of the period of which the authority has invested the principal of the rental assistance fund at a known rate of return.

(e) Each rental assistance contract shall set forth a maximum annual rental assistance payment amount. The authority shall establish procedures for determining the maximum annual rental assistance payment amount and may consider, but not be limited to, the following:

- (1) The cost of constructing the eligible project;
- (2) The estimated annual operating cost of the eligible project;
- (3) The estimated maximum rentals which may be charged for units in the eligible project;
- (4) The amount of funds available for the funding of rental assistance contracts;
- (5) The number of eligible projects requiring assistance under this part; and
- (6) A restricted rate of return on equity to the owner, which rate shall be established by the authority by rule.

**§356-305 Rules, rental assistance program.** (a) Prior to the execution of a rental assistance contract and annually thereafter, the owner shall submit a proposed rental schedule to the authority for approval, which schedule shall list every rental

unit in the project and shall designate which units are to be maintained for eligible tenants.

(b) The authority shall establish procedures for evaluating the rental schedules submitted pursuant to this section, and may consider, but not be limited to, the following:

- (1) The size of and number of bedrooms in the units comprising the eligible project;
- (2) The location of the project and its type (whether high-rise, mid-rise, or low-rise);
- (3) The percentage of units being maintained for eligible tenants; and
- (4) The rentals prevalent in the open market for comparable units.

(c) Annually, following the approval of the rental schedule submitted pursuant to the preceding section, the authority shall determine the amount of rental assistance payments payable to the owner for the forthcoming year, which amount shall under no circumstances exceed the maximum annual rental assistance payment amount determined in accordance with section 356-304. The amount determined pursuant to this subsection shall take into account the estimated amount to be derived by the owner from rentals to be charged for the forthcoming year and the limited rate of return on equity permitted in accordance with section 356-304(e)(6).

(d) The authority shall establish standards and requirements for:

- (1) The awarding of rental assistance contracts and the allocation of annual rental assistance payments;
- (2) The form of lease to be utilized by the owner in renting units in an eligible project;
- (3) The marketing and tenant selection and admission processes to be employed by the owner with respect to an eligible project; and
- (4) The maintenance and operation of eligible projects.

(e) The authority shall establish procedures for:

- (1) The annual review of rental schedules for eligible projects;
- (2) The periodic review of the income of tenants renting units in eligible projects; and
- (3) The periodic inspection of eligible projects to monitor the owners' compliance with the terms and conditions of their rental assistance contracts.

(f) The authority 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 authority'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 authority.

(g) The authority may adopt rules under chapter 91 necessary or convenient for the operation of the rental assistance program under this part.

**§356-306 Benefits of program not exclusive.** Nothing in this part contained shall be construed to prohibit, with respect to an eligible project, the operation of the rental assistance program in conjunction with other state or federal programs including, but not limited to, the state rent supplements provided for in part VI of chapter 359."

SECTION 2. Section 356-201, Hawaii Revised Statutes, is amended by amending the definition of "eligible project loan" to read:

"Eligible project loan" means an interim or permanent loan, which may be federally insured or guaranteed, made to a qualified sponsor for the financing of a rental housing project, and which meets other requirements as established by rules adopted by the authority pursuant to chapter 91."

SECTION 3. Section 356-208, Hawaii Revised Statutes, is amended to read as follows:

**§356-208 Rules; eligible project loans.** (a) The authority shall establish requirements for projects to be financed by an eligible project loan, and may consider, but not be limited to the location, age, condition, and other characteristics of the project.

(b) The authority shall establish restrictions on the terms, maturities, interest rates, and other requirements for eligible project loans.

(c) The authority shall establish restrictions on the prepayment of eligible project loans and on the transfer of ownership of the projects securing eligible project loans.

(d) The authority shall require that any sums deferred on land leased at nominal rates by the authority to the owner of an eligible project shall be recovered by the authority at the time an eligible project loan is prepaid, whether as a result of a refinancing of the eligible project loan or otherwise, to the extent that funds are available therefor from the refinancing or other method by which the eligible project loan is paid in full prior to its due date.

(e) The authority shall enter into an agreement with the owner of an eligible project to be financed with an eligible project loan which shall provide that in the event that the eligible project loan is at any time prepaid for the purpose of converting the rental units of such project to ownership units, all tenants at the time of the proposed conversion shall have the first option to purchase their units.

(f) All eligible project loans shall comply with applicable state and federal laws."

SECTION 4. Section 356-241, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The authority may make loans to mortgage lenders under terms and conditions requiring that the loan proceeds be used within a time period prescribed by the authority to make eligible loans and eligible project loans in an aggregate principal amount substantially equal to the amount of the loan."

SECTION 5. Section 356-251, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The authority shall require as a condition of each purchase of existing loans from a mortgage lender that the mortgage lender proceed to make and disburse eligible loans or eligible project loans in an aggregate principal amount substantially equal to the amount of the proceeds from the purchase by the authority of loans therefrom."

## ACT 112

SECTION 6. Section 356-271, Hawaii Revised Statutes, is amended to read as follows:

**"§356-271 Eligible loan and eligible project loan funding program.** (a) The authority may contract with mortgage lenders to fund eligible loans and may directly make or contract with mortgage lenders to fund eligible project loans.

(b) Any such contract with a mortgage lender may contain provisions as determined by the authority to be necessary or appropriate to provide security for its revenue bonds."

SECTION 7. **Severability.** If any part, section, sentence, clause, phrase, word, or punctuation of this Act, or the application thereof to any person or transaction or circumstance is held invalid, the invalidity does not affect any other part, section, sentence, clause, phrase, word, or punctuation of this Act or the application thereof to other persons or transactions or circumstances which can be given effect without the invalid part, section, sentence, clause, word, or punctuation or application, and to this end the parts, sections, sentences, clauses, words, or punctuation of this Act are severable.

SECTION 8. Statutory material to be repealed is bracketed. New material is underscored.\*

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

(Approved June 8, 1981.)

## ACT 112

H.B. NO. 728

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

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

SECTION 1. Section 209, Hawaiian Homes Commission Act, 1920, as amended, is amended to read as follows:

**"§209. Successors to lessees.** (a) Upon the death of the lessee, his interest in the tract or tracts and the improvements thereon, including growing crops (either on the tract or in any collective contract or program to which the lessee is a party by virtue of his interest in the tract or tracts), shall vest in the relatives of the decedent as provided in this subsection. From the following relatives of the lessee, husband and wife, children, widows or widowers of the children, grandchildren, brothers and sisters, widows or widowers of the brothers and sisters, or nieces and nephews, the lessee shall designate the person or persons to whom he directs his interest in the tract or tracts to vest upon his death. Such person or persons must be qualified to be a lessee of Hawaiian home lands; provided that the Hawaiian blood requirements shall not apply to the descendants of those who are not native Hawaiians but who were entitled to the leased lands under section 3 of the Act of May 16, 1934 (48 Stat. 777,

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

779), as amended; provided further that such person or persons need not be twenty-one years of age. Such designation shall be in writing, shall be specified at the time of execution of such lease with a right in such lessee in similar manner to change such beneficiary at any time, and shall be filed with the department and approved by the department in order to be effective to vest such interests in the successor or successors so named.

In the absence of such a designation as approved by the department, the department shall select from the relatives of the lessee in the order named above as limited by the foregoing paragraph one or more persons who are qualified to be lessees of Hawaiian home lands, except as hereinabove provided, as the successor or successors of the lessee's interest in the tract or tracts, and upon the death of the lessee, his interest shall vest in the person or persons so selected. The department may select such a successor or successors after the death of the lessee, and the rights to the use and occupancy of the tract or tracts may be made effective as of the date of the death of such lessee.

In the case of the death of a lessee leaving no such relative qualified to be a lessee of Hawaiian home lands, the land subject to the lease shall resume its status as unleased Hawaiian home lands and the department may lease such land to a native Hawaiian as provided in this Act.

Upon the death of a lessee leaving no such relative qualified to be a lessee of Hawaiian home lands, or the cancellation of a lease by the department, or the surrender of a lease by the lessee, the department shall determine the value of improvements on the lot and shall pay to the legal representative of the deceased lessee, or to the previous lessee, as the case may be, the amount determined in accordance with section . Such payments shall be made out of the loan fund and shall be considered an advance therefrom reimbursable out of payments made by the successor or successors to the tract involved.

(b) After the cancellation of a lease by the department in accordance with sections 210 and 216 of this Act, or the surrender of a lease by a lessee, the department may transfer the lease or issue a new lease to any native Hawaiian regardless of whether or not he is related in any way by blood or marriage to the previous lessee.

(c) Should any successor or successors to a tract be a minor or minors, the department may appoint a guardian therefor, subject to the approval of the court of proper jurisdiction. Such guardian may represent the successor or successors in all matters pertaining to the leasehold; provided that the guardian shall, in so representing such successor or successors, comply with this Act and the stipulations and provisions contained in the lease, except that the guardian need not be a native Hawaiian as defined in section 201 of this Act."

SECTION 2. Hawaiian Homes Commission Act, 1920, as amended, is amended by adding a new section be appropriately designated and to read as follows:

"§ . Value and purchase of improvements at surrender or cancellation. (a) For a period of ten years after the effective date of an award, transfer, succession, home replacement, or substantial improvement, as the case may be, if the lessee surrenders or the lessor cancels the lease, the department shall purchase the improvements on the lot at a price which shall not exceed the sum of:

- (1) The original cost of improvements to the lessee;
- (2) The original cost of improvements added by the lessee, except when the department determines, in accordance with adopted rules, that such improvements are luxurious in nature; and
- (3) Simple interest on the lessee's equity in the improvements at the rate of seven per cent a year. "Equity", as used in this paragraph, means the difference between the sum of the original cost of the improvements to the lessee and improvements added by the lessee, and the principal amount on any mortgage, lien, or note outstanding.

(b) After the end of the tenth year from the effective date of an award, transfer, succession, home replacement, or substantial improvement, as the case may be, the department shall purchase the improvements on the lot at a price not to exceed the appraised value of the improvements, except when the department determines, in accordance with adopted rules, that such improvements are luxurious in nature.

(c) For a surrender or cancellation involving a commercial farm, in addition to purchasing the improvements, the department shall also purchase the mature crops and tree crops. The purchase price shall not exceed the value of the mature crops and the residual value of the tree crops, and shall be established by appraisal, whether or not surrender or cancellation occurs during the ten-year restriction period.

(d) In a surrender or cancellation occurring during the ten-year restriction period, the department's purchase price of the improvements shall be the lesser of the price calculated in subsection (a) and the value appraised in subsection (b).

(e) In a surrender or cancellation, the department's payment to the lessee shall be the difference of the amount calculated in subsection (a) or appraised in subsections (b) and (c), as the case may be, and any indebtedness to the department, any indebtedness for taxes, or any indebtedness the payment of which has been assured by the department at the time of surrender or cancellation of the residential lot lease.

(f) Notwithstanding any other law to the contrary, if upon surrender or cancellation, the department determines that the cost to remedy, renovate, or to restore the premises to a safe and reasonably comfortable condition is unwarranted due to the age, condition, or the estimated remaining economic life of the improvements, the department shall assign no value to the improvements. The lessee or the lessee's legal representative may be authorized by the department to dispose of the improvements under terms and conditions prescribed by the department.

(g) For the purposes of this section, the appraisal of improvements or crops to be purchased by the department shall be performed by either of the following methods:

- (1) By one appraiser mutually agreeable to both the department and the lessee. The cost of the appraisal shall be borne equally by the department and the lessee; or
- (2) By not more than three disinterested appraisers of which the first shall be contracted for by the department; provided that should the lessee fail to agree upon the value, the lessee may appoint the lessee's own appraiser. If the appraisal values are different and a settlement between the department and lessee is not possible, a third appraisal shall be performed by a disinterested appraiser appointed by the department's appraiser and the

lessee's appraiser; provided that the third appraiser shall act as an arbitrator and determine the final value which shall be between the values of the first and second appraisals. The department shall pay for its own appraiser, the lessee or lessee's legal representative shall pay for the lessee's own appraiser, and the cost of the third appraiser shall be borne equally by the lessee and the department.

(h) Nothing contained in this section shall be construed in a manner as to infringe upon or prejudice in any way rights or interests which shall have vested prior to the effective date hereof."

SECTION 3. Section 215, Hawaiian Homes Commission Act, 1920, as amended, is amended to read as follows:

**"§215. Conditions of loans.** Except as otherwise provided in section 213(a) (5), each contract of loan with the lessee or any successor or successors to his interest in the tract or with any agricultural or mercantile cooperative association composed entirely of lessees shall be held subject to the following conditions whether or not stipulated in the contract loan:

- (1) At any one time, the outstanding amount of loans made to any lessee, or successor or successors in interest, for the repair, maintenance, purchase, and erection of a dwelling and related permanent improvements shall not exceed \$35,000, for the development and operation of a farm or a ranch shall not exceed \$35,000, except that when loans are made to an agricultural cooperative association for the purposes stated in section 214(a) (4), the loan limit shall be determined by the department on the basis of the proposed operations and the available security of the association, and for the development and operation of a mercantile establishment shall not exceed the loan limit determined by the department on the basis of the proposed operations and the available security of the lessee or of the organization formed and controlled by lessees; provided that where, upon the death of a lessee leaving no relative qualified to be a lessee of Hawaiian home lands, or the cancellation of a lease by the department, or the surrender of a lease by the lessee, the department shall make the payment provided for by section 209(a), the amount of any such payment made to the legal representative of the deceased lessee, or to the previous lessee, as the case may be, shall be considered as part or all, as the case may be, of any such loan to the successor or successors, without limitation as to the above maximum amounts; provided further that in case of the death of a lessee, or cancellation of a lease by the department, or the surrender of a lease by the lessee, the successor or successors to the tract shall assume any outstanding loan or loans thereon, if any, without limitation as to the above maximum amounts but subject to paragraph (3).
- (2) The loans shall be repaid in periodic installments, such installments to be monthly, quarterly, semi-annual, or annual as may be determined by the department in each case. The term of any loan shall not exceed thirty years. Payments of any sum in addition to the required installments, or payment of the entire amount of the loan, may be made at any time within the term of the loan. All unpaid balances of principal shall bear interest at

the rate of two and one-half per cent a year for loans made directly from the Hawaiian home loan fund, or at the rate of two and one-half per cent or higher as established by law for other loans, payable periodically or upon demand by the department, as the department may determine. The payment of any installment due shall be postponed in whole or in part by the department for such reasons as it deems good and sufficient and until such later date as it deems advisable. Such postponed payments shall continue to bear interest on the unpaid principal at the rate established for the loan.

- (3) In the case of the death of a lessee the department shall, in any case, permit the successor or successors to the tract to assume the contract of loan subject to paragraph (1). In case of the cancellation of a lease by the department or the surrender of a lease by the lessee, the department may, at its option declare all installments upon the loan immediately due and payable, or permit the successor or successors to the tract to assume the contract of loan subject to paragraph (1). The department may, in such cases where the successor or successors to the tract assume the contract of loan, waive the payment, wholly or in part, of interest already due and delinquent upon the loan, or postpone the payment of any installment thereon, wholly or in part, until such later date as it deems advisable. Such postponed payments shall, however, continue to bear interest on the unpaid principal at the rate established for the loan. Further, the department may, if it deems it advisable and for the best interests of the lessees, write off and cancel, wholly or in part, the contract of loan of the deceased lessee, or previous lessee, as the case may be, where such loans are delinquent and deemed uncollectible. Such write-off and cancellation shall be made only after an appraisal of all improvements and growing crops on the tract involved, such appraisal to be made in the manner as provided for by section . In every case, the amount of such appraisal, or any part thereof, shall be considered as part or all, as the case may be, of any loan to such successor or successors, subject to paragraph (1).
- (4) No part of the moneys loaned shall be devoted to any purpose other than those for which the loan is made.
- (5) The borrower or the successor to his interest shall comply with such other conditions, not in conflict with any provision of this Act, as the department may stipulate in the contract of loan.
- (6) The borrower or the successor to his interest shall comply with the conditions enumerated in section 208, and with section 209 of this Act in respect to the lease of any tract.
- (7) Whenever the department shall determine that a borrower is delinquent in the payment of any indebtedness to the department, it may require such borrower to execute an assignment to it, not to exceed, however, the amount of the total indebtedness of such borrower, including the indebtedness to others the payment of which has been assured by the department of all moneys due or to become due to such borrower by reason of any agreement or contract, collective or otherwise, to which the borrower is a party. Failure to execute such an assignment when

requested by the department shall be sufficient ground for cancellation of the borrower's lease or interest therein."

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

**SECTION 5.** This Act shall take effect upon its approval by the Governor of the State of Hawaii and with the consent of the United States Congress.

(Approved June 8, 1981.)

## ACT 113

H.B. NO. 739

A Bill for an Act Relating to Vital Statistics.

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

**SECTION 1.** Section 338-4, Hawaii Revised Statutes, is amended to read as follows:

**"§338-4 Deaths reported to county clerks.** The department of health shall within six weeks after the end of each month deliver, or forward by mail, to the county clerk of each county a list of the names of all citizens of voting age or over whose deaths have been recorded in the department during each month. The list shall set forth such portion of the information contained in the death record of each citizen whose death is so reported as will be of assistance to the county clerk in identification."

**SECTION 2.** Section 338-8, Hawaii Revised Statutes, is amended to read as follows:

**"§338-8 Compulsory registration of deaths and fetal deaths.** A certificate of every death or fetal death shall be filed with the department of health in Honolulu or with the local agent of the department of health in the district in which the death or fetal death occurred or a dead body was found within three days after the death or fetal death occurred or the dead body was found. In every instance, a certificate shall be filed prior to interment or other disposition of the body."

**SECTION 3.** Section 338-9, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

(a) The person in charge of the disposition of the body shall file with the department of health in Honolulu or with the local agent of the department of health in the district in which the death or fetal death occurred, or a dead body was found, a certificate of death or fetal death within three days after the occurrence, except that reports of intentional terminations of pregnancy performed in accordance with section 453-16 may be deferred for up to one month.

(b) In preparing a certificate of death or fetal death the person in charge of the disposition of the body shall:

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

- (1) Obtain and enter on the certificate the personal data and other information pertaining to the deceased person required by the department from the person best qualified to supply them;
- (2) Present the certificate of death to the physician last in attendance upon the deceased, or to the coroner's physician, who shall thereupon certify the cause of death to the physician's best knowledge and belief, or present the certificate of fetal death to the physician, midwife, or other person in attendance at the fetal death, who shall certify the fetal death and such medical data pertaining thereto as can be furnished; provided that fetal deaths of less than twenty-four weeks or intentional terminations of pregnancy performed in accordance with section 453-16 may be certified by a nurse or other employee based upon the physician's records; and
- (3) Notify immediately the appropriate local agent, if the death occurred without medical attendance, or if the physician last in attendance fails to sign the death certificate. In such event the local agent shall inform the local health officer, and refer the case to the local health officer for immediate investigation and certification of the cause of death prior to issuing a permit for burial, or other disposition of the body. When the local health officer is not a physician or when there is no such officer, the local agent may complete the certificate on the basis of information received from relatives of the deceased or others having knowledge of the facts.

If the circumstances of the case suggest that the death or fetal death was caused by other than natural causes, the local agent shall refer the case to the coroner for investigation and certification."

**SECTION 4.** Section 338-23, Hawaii Revised Statutes, is amended to read as follows:

**"§338-23 Permit for removal, burial, or other disposition of body.** When a death or fetal death occurs or a dead body is found, the body shall not be disposed of or removed from the registration district until a written permit has been issued by the local agent of the department of health, except that if the dead fetus is less than twenty-four weeks of gestation, no permit shall be required and except that if the death occurred as a result of an accident or other casualty occurrence, the local agent of the department of health may orally authorize the dead bodies to be removed from a registration district and airlifted or otherwise directly transported to the Honolulu registration district for the preparation and filing of death certificates and the issuance of written permits for further disposition."

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

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

(Approved June 8, 1981.)

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 114

H.B. NO. 743

A Bill for an Act Relating to Workers' Compensation.

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

SECTION 1. Section 386-35, Hawaii Revised Statutes, is amended to read:

**"§386-35 Benefit adjustment.** (a) Effective June 18, 1980, any employee whose date of work injury is on or before June 18, 1980 and who is at any time after said work injury determined to be permanently and totally disabled shall be paid, without application, a supplemental allowance by the responsible employer calculated in accordance with the following provisions:

- (1) In any case where that employee is entitled to receive the maximum weekly income benefit applicable on the date of his work injury, the supplemental allowance shall be an amount which when added to such benefit will equal the maximum weekly benefit as of June 18, 1980.
  - (2) In any case where that employee is entitled to receive less than the maximum weekly income benefit applicable on the date of his work injury, the supplemental allowance shall be an amount equal to the maximum weekly income benefit as of June 18, 1980 multiplied by the ratio of that employee's weekly income benefit to the maximum weekly income benefit applicable on the date of his work injury, minus that employee's current weekly income benefit.
- (b) The employer shall be entitled to reimbursement from the special compensation fund for the additional amount paid under subsection (a).

(c) Effective June 18, 1980, any employee whose date of work injury is on or before June 18, 1980 and who is at any time after said work injury determined to be permanently and totally disabled, and who is further being paid weekly income benefits for permanent total disability by the special compensation fund shall be paid, without application, a supplemental allowance in accordance with the following provisions:

- (1) In any case where that employee is entitled to receive the maximum weekly income benefit applicable on the date of the work injury, the supplemental allowance shall be an amount which when added to such benefit will equal the maximum weekly benefit as of June 18, 1980.
- (2) In any case where that employee is entitled to receive less than the maximum weekly income benefit applicable on the date of the work injury, the supplemental allowance shall be an amount equal to the maximum weekly income benefit as of June 18, 1980 multiplied by the ratio of that employee's current weekly income benefit to the maximum weekly income benefit applicable on the date of the work injury, minus that employee's current weekly income benefit.
- (3) In any case where that employee is entitled to receive weekly benefits at a fifty per cent rate, the supplemental allowance shall be an amount equal to the maximum weekly income benefit as of June 18, 1980 multiplied by twice the ratio of that employee's current weekly income benefit to the maximum weekly income benefit applicable on the date of the work injury minus that employee's current weekly income benefit.

## ACT 116

(4) In any case where that employee is no longer receiving weekly benefits, the supplemental allowance shall be an amount equal to the maximum weekly income benefit as of June 18, 1980 multiplied by the ratio of that employee's last weekly income benefit to the maximum weekly income benefit applicable on the date of the work injury."

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 8, 1981.)

## ACT 115

H.B. NO. 748

A Bill for an Act Relating to Temporary Disability Insurance.

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

SECTION 1. Chapter 392, Hawaii Revised Statutes, is amended by adding a new section to Part III to read as follows:

**"§392-52 Disposition of accrued benefits where insurer is unable to locate employee.** An insurer who is unable to pay benefits to an employee because he cannot be located, shall deposit the accrued benefits into the special fund for disability benefits. Upon locating the employee, the director shall pay from the special fund to the employee an amount equal to but not more than the amount paid into the fund by the employer. If the employee cannot be located for a period of two years from the date of deposit, the employee's unpaid benefits shall escheat to the special fund for disability benefits."

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 8, 1981.)

## ACT 116

H.B. NO. 760

A Bill for an Act Relating to Public Lands.

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

SECTION 1. Section 171-2, Hawaii Revised Statutes, is amended to read as follows:

**"§171-2 Definition of public lands.** "Public lands" means all lands or interest therein in the State classed as government or crown lands previous to August 15,

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

1895, or acquired or reserved by the government upon or subsequent to that date by purchase, exchange, escheat, or the exercise of the right of eminent domain, or in any other manner, including submerged lands, and lands beneath tidal waters which are suitable for reclamation, together with reclaimed lands which have been given the status of public lands under this chapter, except:

- (1) Lands designated in section 203 of the Hawaiian Homes Commission Act, 1920, as amended,
- (2) Lands set aside pursuant to law for the use of the United States,
- (3) Lands being used for roads and streets,
- (4) Lands to which the United States relinquished the absolute fee and ownership under section 91 of the Hawaiian Organic Act prior to the admission of Hawaii as a state of the United States unless subsequently placed under the control of the board of land and natural resources and given the status of public lands in accordance with the State Constitution, the Hawaiian Homes Commission Act, 1920, as amended, or other laws,
- (5) Lands to which the University of Hawaii holds title, and
- (6) Lands to which the Hawaii housing authority in its corporate capacity holds title."

SECTION 2. Section 171-3, Hawaii Revised Statutes, is amended to read as follows:

**"§171-3 Department of land and natural resources.** The department of land and natural resources shall be headed by an executive board to be known as the board of land and natural resources. The department shall manage, administer, and exercise control over public lands, the water resources, and minerals and all other interests therein and exercise such powers of disposition thereof as may be authorized by law. The department shall also manage and administer the state parks, historical sites, forests, forest reserves, fisheries, wildlife sanctuaries, game management areas, public hunting areas, natural area reserves, and other functions assigned to it by law."

SECTION 3. Section 171-8, Hawaii Revised Statutes, is amended to read as follows:

**"§171-8 Land agents and other employees.**

The board shall be represented in each land district by a district land agent. The board may employ other necessary employees.

The district land agent shall exercise the powers and duties delegated by the board and shall report to the designated representative of the board.

The appointment, removal, and compensation of district land agents and other employees shall be determined in accordance with chapters 76 and 77."

SECTION 4. Section 171-11, Hawaii Revised Statutes, is amended to read:

**"§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. 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, with the 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 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."

SECTION 5. Section 171-26, Hawaii Revised Statutes, is amended to read:

**"§171-26 Rights-of-way to the sea, game management areas, and public hunting areas.** Prior to the disposition of any public lands, the board of land and natural resources shall lay out and establish over and across such lands a reasonable number of rights-of-way from established highways to the public beaches, game management areas, public hunting areas, and public forests and forest reserves in order that the right of the people to utilize the public beaches, game management areas, public hunting areas, and public forests and forest reserves shall be protected.

Prior to the leasing of any lands, the board shall determine the feasibility of hunting on such lands, and if any of them is suitable for hunting or may during the term of the lease become suitable for hunting, the board may reserve such lands as game management areas or public hunting areas. Where the board finds that hunting on such lands would not be consistent with the rights of the lessee or for other good cause, the board need not reserve such lands as game management areas or public hunting areas.

The cost of such rights-of-way and any fencing which may be required shall be borne by the State, lessee or jointly as the board may deem appropriate prior to the leasing of such lands."

SECTION 6. Section 171-35, Hawaii Revised Statutes, is amended to read:

**"§171-35 Lease provisions; generally.** Every lease issued by the board of land and natural resources shall contain:

- (1) The specific use or uses to which the land is to be employed;
- (2) The improvements required; provided, that a minimum reasonable time be allowed for the completion of the improvements;
- (3) Restrictions against alienation as set forth in section 171-36;
- (4) The rent, as established by the board or at public auction, which shall be payable not more than one year in advance, in quarterly, semi-annual, or annual payments;
- (5) Where applicable, adequate protection of forests, watershed areas, game management areas, wildlife sanctuaries, and public hunting areas, reservation of rights-of-way and access to other public lands, public hunting areas, game management areas, or public beaches, and prevention of nuisance and waste; and
- (6) Such other terms and conditions as the board deems advisable to more nearly effectuate the purposes of the State Constitution and of this chapter."

SECTION 7. Section 171-64, Hawaii Revised Statutes, is amended to read:

**"§171-64 Covenants against discrimination.** The board of land and natural resources shall provide in every patent, deed, lease, agreement, license, or permit that the use and enjoyment of the premises being granted shall not be in support of any

## **ACT 118**

policy which discriminates against anyone based upon race, creed, color, national origin, sex or a physical handicap. The board shall not dispose of any public land to any person who practices discrimination based upon race, creed, color, national origin, sex or a physical handicap. As used in this section "physical handicap" means a physical impairment which substantially limits one or more of a person's major life activities."

**SECTION 8.** Statutory material to be repealed is bracketed. New material is underscored.\*

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

(Approved June 8, 1981.)

## **ACT 117**

**H.B. NO. 770**

A Bill for an Act Relating to Agricultural Parks.

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

**SECTION 1.** Section 171-113, Hawaii Revised Statutes, is amended to read:

**"§171-113 Definition of agricultural park.** For the purposes of this part, agricultural park shall mean any agricultural or aquacultural complex which combines and concentrates in a common location agricultural or aquacultural activities, or both for the purpose of production and distribution economies. Agricultural buildings, farm residences, and employee dwellings necessary to the production and distribution of agricultural or aquacultural commodities shall be considered part of the agricultural park. For the purposes of this section, the term "aquaculture" means the farming or ranching of any plant or animal species in a controlled salt, brackish, or freshwater environment; provided that such farm or ranch is on or directly adjacent to land."

**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 8, 1981.)

## **ACT 118**

**H.B. NO. 774**

A Bill for an Act Relating to Adverse Peer Review Committee Reports.

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

**SECTION 1.** Section 453-8.3, Hawaii Revised Statutes, is amended to read:

**"§453-8.3 Review of adverse decisions reported by peer review committees.**

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

The board shall review all adverse decisions reported to it by the peer review committees of medical societies, hospitals, and other health care institutions required to report by section 663-1.7. The information in such decisions shall be held confidential by the board unless and to the extent any such information is admissible evidence at a hearing held under section 453-9; provided that a written affirmative or negative reply may be given to a written inquiry by a hospital or health care facility as to whether a report of an adverse decision is on file with the board."

**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 8, 1981.)

**ACT 119**

**H.B. NO. 785**

A Bill for an Act Relating to Public Assistance.

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

**SECTION 1.** Section 346-71, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

"(a) The department of social services and housing shall administer and provide public assistance to eligible persons who are disabled, or are at least fifty-five years of age, or have dependent children in the home not otherwise provided for under this chapter, and who are unable to provide sufficient support for themselves or those dependent upon them; provided that such persons are bona fide residents of this State. In family groups in which there are children, income and resources of both parents, natural or adoptive, shall be considered available for each other and the support of their children.

For purposes of determining whether persons seeking assistance are bona fide residents of this State, the department of social services and housing shall consider, but is not limited to considering, the following factors: enrollment and receipt of welfare benefits from another jurisdiction; physical presence in the State; maintenance of a place of residence in the State; the availability of furnishings and household and personal effects sufficient to lead a reasonable person to conclude that the place of residence is more than a public accommodation; qualification as to residence for purposes of voting in the State; change in vehicle operation license; vehicle registration; enrollment of children in local schools; bank accounts in this State or any other jurisdiction."

**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 8, 1981.)

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

A Bill for an Act Relating to Manufacturing Enterprises.

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

SECTION 1. The legislature finds that under Article VII, section 12, of the Constitution of the State of Hawaii, the legislature is authorized to enact enabling legislation to allow authorization by separate act of special purpose revenue bonds to assist manufacturing enterprises, if it is in the public interest. The legislature declares and finds that enabling the State to issue special purpose revenue bonds to assist manufacturing enterprises is a valid purpose and in the public interest.

The purpose of this Act, therefore, is to provide the enabling legislation for the issuance of special purpose revenue bonds for manufacturing enterprises.

SECTION 2. Chapter 39A, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

#### **"PART . ASSISTING MANUFACTURING ENTERPRISES**

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

- (1) "Department" means the department of budget and finance.
- (2) "Project" means any combination of land, buildings, and other improvements thereon, for use as a manufacturing enterprise, including, without limiting the generality of the foregoing, machinery, equipment, furnishings, and apparatus which shall be deemed necessary, suitable, or useful to such enterprise.
- (3) "Project agreement" means any agreement entered into under this part by the department with a project party to financially assist a manufacturing enterprise from the proceeds of special purpose revenue bonds, including without limitation any loan agreement.
- (4) "Project party" means a person, firm, or corporation qualified to do business in this State and conducting or proposing to conduct a manufacturing enterprise in this State.
- (5) "Special purpose revenue bonds" or "bonds" means bonds, notes, or other evidences of indebtedness of the State issued pursuant to this part.

**§39A- Department powers as to manufacturing enterprises.** In addition to powers which it may now have, the department shall have all powers necessary or convenient to accomplish the purposes of this part. The powers of the department include, but are not limited to, the following:

- (1) Notwithstanding and without compliance with sections 103-7 and 103-22, but with the approval of the governor, to enter into and carry out a project agreement, or an amendment or supplement to an existing project agreement, with a project party, and to enter into and carry out any agreement whereby the obligation of a project party under a project agreement will be unconditionally guaranteed by a person other than a project party.
- (2) To issue special purpose revenue bonds pursuant to and in accordance

with this part.

- (3) To lend the proceeds of the special purpose revenue bonds issued for a project to the project party for use and application by the project party for the acquisition, purchase, construction, reconstruction, improvement, betterment, extension, or maintenance of a project.
- (4) As security for the payment of the principal of, premium, if any, and interest of the special purpose revenue bonds issued for a project, to pledge, assign, hypothecate, or otherwise encumber all or any part of the revenues and receipts derived or to be derived by the department under the project agreement for the project for which such bonds are issued; to pledge and assign the interest and rights of the department under the project agreement or other agreement with respect to such project or such special purpose revenue bonds; and to pledge and assign any bond, debenture, note, or other evidence of indebtedness received by the department with respect to such project; or any combination of the foregoing.
- (5) To extend or renew any project agreement or any other agreement related thereto; provided that any such renewal or extension shall be subject to the approval of the governor unless made in accordance with provisions for such extension or renewal contained in a project agreement or related agreement theretofore approved by the governor.
- (6) To do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in this part.

**§39A- Compliance with state and local law.** The issuance of special purpose revenue bonds with respect to any project under this part shall not relieve any project party or other user of such project from the laws, ordinances, and rules and regulations of the State or any political subdivision thereof, or any departments or boards thereof with respect to the construction, operation, and maintenance of projects, or zoning laws or regulations, obtaining of building permits, compliance with building and health codes and other laws, ordinances, or rules and regulations of similar nature pertaining to the project, and such laws shall be applicable to such party or such other user to the same extent they would be if the costs of the project were directly financed by the project party.

**§39A- Conditions precedent to negotiating and entering into a project agreement.** The department prior to entering into negotiations with respect to a project agreement or at any time during such negotiations shall require that as a condition to such negotiations or the continuation thereof the State shall be reimbursed for any and all costs and expenses incurred by it even though a project agreement may not be entered into and may further require the deposit of moneys with the department as security for such reimbursement. Any amount of such deposit in excess of the amount required to reimburse the State shall be returned by the department to the party which has made such deposit.

The department shall not enter into any project agreement with respect to any project unless the legislature shall have first authorized the issuance of special purpose revenue bonds to finance such project pursuant to section 39A- and the department has thereafter found and determined either that the project party is a

responsible party, whether by reason of economic assets or experience in the type of enterprise to be undertaken through such project, or otherwise, or that the obligation of the project party under the project agreement will be unconditionally guaranteed by a person who is a responsible party, whether by reason of economic assets or experience in the type of enterprise to be undertaken through such project or otherwise.

**§39A- Project agreement.** No special purpose revenue bonds shall be issued unless at the time of issuance the department shall have entered into a project agreement with respect to the project for the financing of which such revenue bonds are to be issued. Any project agreement entered into by the department shall contain provisions unconditionally obligating the project party:

- (1) To pay to the department during the period or term of the project agreement, exclusive of any renewal or extension thereof and whether or not the project is used or occupied by the project party, such sum or sums, at such time or times, and in such amounts that will be at least sufficient:
  - (A) To pay the principal and interest on all special purpose revenue bonds issued with respect to the project as and when the same become due, including any premium payable upon any required redemption of such bonds;
  - (B) To establish or maintain such reserve, if any, as may be required by the instrument authorizing or securing the special purpose revenue bonds;
  - (C) To pay all fees and expenses (including the fees and expenses of the paying agents and trustees) incurred in connection with such special purpose revenue bonds; and
  - (D) To pay the expenses (direct or indirect) incurred by the State, as determined by the department, in administering such bonds or in carrying out the project agreement.
- (2) To operate, maintain, and repair the project as long as the same is used as provided in the project agreement to pay all costs of such operation, maintenance, and repair.

Moneys received by the department pursuant to paragraph (1)(D) shall not be, or be deemed to be, revenues of the project and shall be paid into the general fund of the State.

**§39A- Issuance of special purpose revenue bonds to finance projects.** In addition to the other powers which it may otherwise have, the department may issue special purpose revenue bonds to finance, in whole or in part, the costs of facilities of, or for, or to loan the proceeds of such bonds to assist project parties. All revenue bonds issued under this part are special purpose revenue bonds and the provisions of part III of chapter 39 shall not apply thereto. All special purpose revenue bonds shall be issued in the name of the department and not in the name of the State.

The department, in determining the cost of any project, may also include the following:

- (1) Financing charges, fees, and expenses of any trustee and paying agents for special purpose revenue bonds issued to pay the cost of such project;
- (2) Interest on such bonds and the expenses of the State in connection with

such bonds and the project to be financed from the proceeds of such bonds accruing or incurred prior to and during the estimated period of construction and not exceeding twelve months thereafter;

- (3) Amounts necessary to establish or increase reserves for the special purpose revenue bonds;
- (4) The cost of plans, specifications, studies, surveys, and estimates of costs and of revenues;
- (5) Other expenses incidental to determining the feasibility or practicability of the project;
- (6) Administration expenses;
- (7) Legal, accounting, consulting, and other special service fees;
- (8) Interest cost incurred by the project party with respect to the project prior to the issuance of the special purpose revenue bonds; and
- (9) Such other costs, commissions, and expenses incidental to the construction, acquisition, reconstruction, renovation, rehabilitation, improvement, betterment, operation, maintenance, or extension of the project, the financing, placing of same in operation, and the issuance of the special purpose revenue bonds, whether incurred prior to or after the issuance of such bonds.

The legislature finds and determines that the exercise of the powers vested in the department by this part constitutes assistance to a manufacturing enterprise and that the issuance of special purpose revenue bonds to finance facilities of, or for, or to loan the proceeds of such bonds to assist, project parties, is in the public interest.

**§39A- Authorization of special purpose revenue bonds.** (a) Special purpose revenue bonds for each project or multiproject program shall be authorized by a separate act of the legislature, by an affirmative vote of two-thirds of the members to which each house is entitled; provided that the legislature shall find that the issuance of such bonds is in the public interest. Special purpose revenue bonds issued pursuant to this part may be in one or more series for each project. The special purpose revenue bonds of each issue shall be dated, shall bear interest at such rate or rates, shall mature at such time or times not exceeding forty years from their respective date or dates, shall have such rank or priority and may be made redeemable before maturity at the option of the department, at such price or prices and under such terms and conditions, all as may be determined by the department. The department shall determine the form of the special purpose revenue bonds, including any interest coupons to be attached thereto, and the manner of execution of the special purpose revenue bonds, and shall fix the denomination or denominations of the special purpose revenue bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. The special purpose revenue bonds may be issued in coupon or in registered form, or both, as the department may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The department may sell special purpose revenue bonds in such manner, either at public or private sale, and for such price as it may determine.

(b) Prior to the preparation of definitive special purpose revenue bonds, the

department may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery.

(c) Should any bond issued under this part or any coupon appertaining thereto become mutilated or be lost, stolen, or destroyed, the department may cause a new bond or coupon of like date, number, and tenor to be executed and delivered in exchange and substitution for and upon the cancellation of such mutilated bond or coupon, or in lieu of and in substitution for such lost, stolen, or destroyed bond or coupon. Such new bond or coupon shall not be executed or delivered until the holder of the mutilated, lost, stolen, or destroyed bond or coupon has (1) paid the reasonable expense and charges in connection therewith, (2) in the case of a lost, stolen, or destroyed bond or coupon, has filed with the department or its fiduciary evidence satisfactory to such department or its fiduciary that such bond or coupon was lost, stolen, or destroyed and that the holder was the owner thereof, and (3) has furnished indemnity satisfactory to the department.

(d) The department may provide that CUSIP identification numbers shall be printed on such bonds. In the event such numbers are imprinted on any such bonds (1) no such 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 department or any officer or agent thereof, including any fiscal agent, paying agent, or registrar for such bonds, by reason of such numbers or any use made thereof, including any use thereof made by the department, any such officer, or any such agent, or by reason of any inaccuracy, error, or omission with respect thereto or in such use. The department may require that all costs of obtaining and imprinting such numbers shall be paid by the purchaser of such bonds. For the purpose of this subsection, the term "CUSIP identification numbers" means the numbering system adopted by the Committee for Uniform Security Identification Procedures formed by the Securities Industry Association.

**§39A- Special purpose revenue bond anticipation notes.** Whenever the department has authorized the issuance of special purpose revenue bonds under this part, special purpose revenue bond anticipation notes of the department may be issued in anticipation of the issuance of such bonds and of the receipt of the proceeds of sale thereof, for the purposes for which such bonds have been authorized. All special purpose revenue bond anticipation notes shall be authorized by the department, and the maximum principal amount of such notes shall not exceed the authorized principal amount of such bonds. The notes shall be payable solely from and secured solely by the proceeds of sale of the special purpose revenue bonds in anticipation of which the notes are issued and the revenues from which would be payable and by which would be secured such bonds; provided that to the extent that the principal of the notes shall be paid from moneys other than the proceeds of sale of such bonds, the maximum amount of bonds in anticipation of which the notes are issued that has been authorized shall be reduced by the amount of notes paid in such manner. The authorization, issuance, and the details of such notes shall be governed by the provisions of this part with respect to special purpose revenue bonds insofar as the same may be applicable; provided that each note, together with all renewals and extensions thereof, or refundings thereof by other notes issued under this section, shall mature within five years from the date of the original note.

**§39A- Powers with respect to and security for special purpose revenue bonds.**

In order to secure the payment of any of the special purpose revenue bonds issued pursuant to this part, and interest thereon, or in connection with such bonds, the department shall have the power as to such bonds:

- (1) To pledge all or any part of the revenues derived by the department from the project agreement to the punctual payment of special purpose revenue bonds issued with respect to the project financed from proceeds thereof, and interest thereon, and to covenant against thereafter pledging any such revenues or receipts to any other bonds or any other obligations of the department for any other obligations of the department for any other purpose, except as otherwise stated in the law providing for the issuance of additional special purpose revenue bonds to be equally and ratably secured by a lien upon such revenues.
- (2) To pledge and assign the interest and right of the department under the project agreement and other agreements related thereto and the rights, duties, and obligations of the department thereunder, including the right to receive revenues thereunder.
- (3) To covenant as to the use and disposition of the proceeds from the sale of such bonds.
- (4) To covenant to set aside or pay over reserves and sinking funds for such bonds and as to the disposition thereof.
- (5) To covenant and prescribe as to what happenings or occurrences shall constitute "events of default" and the terms and conditions upon which any or all of such bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived.
- (6) To covenant as to the rights, liabilities, powers, and duties arising upon the breach by it of any covenant, condition, or obligation.
- (7) To designate a national or state bank or trust company within or without the State, incorporated in the United States, to serve as trustee for the holders of the special purpose revenue bonds and to enter into a trust indenture or trust agreement or indenture of mortgage with such trustee. The trustee may be authorized by the department to receive and receipt for, hold, and administer the proceeds of the special purpose revenue bonds issued for the project and to apply the proceeds to the purposes for which such bonds are issued, or to receive and receipt for, hold, and administer the revenues derived by the department under the project agreement and to apply such revenues to the payment of the principal and interest on such bonds, or both, and any excess revenues to the payment of expenses incurred by the State in administering such bonds or in carrying out the project agreement. In the event that such trustee shall be appointed, any trust indenture or trust agreement or indenture or mortgage entered into by the department with the trustee may contain whatever covenants and provisions as may be necessary or convenient or desirable in order to secure such bonds. The department may pledge and assign to the trustee the interest of the department under the project agreement and other agreements related thereto and the rights, duties, and

obligations of the department thereunder, including the right to receive revenues thereunder. The department may appoint the trustee to serve as fiscal agent for the payment of the principal and interest, and for the purchase, registration, transfer, exchange, and redemption of the special purpose revenue bonds, and may authorize and empower the trustee to perform such functions with respect to such payment, purchase, registration, transfer, exchange, and redemption, as the department may deem necessary, advisable, or expedient, including without limitation the holding of the special purpose revenue bonds and coupons which have been paid and the supervision of the destruction thereof in accordance with law.

- (8) To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants and duties.
- (9) To make such covenants and do any and all acts and things as may be necessary or convenient or desirable in order to secure such bonds, notwithstanding that such covenants, acts, or things may not be enumerated herein; it being the purpose thereof to give the department power to do all things in the issuance of such bonds and for their security that may be consistent with the Constitution of the State of Hawaii.

**§39A- Security for special purpose revenue bonds.** Special purpose revenue bonds shall be payable solely from the revenues derived by the department from payments made to the department under the project agreement or other agreements entered into with respect to the project, and shall be secured solely by such revenues and by the pledges and assignments authorized by this part. All special purpose revenue bonds of the same issue, subject to the prior and superior rights of outstanding bonds, claims, obligations, or mechanic's and materialmen's liens, shall have a prior and paramount lien on the revenues derived from the project agreement with respect to the project, for which such bonds have been issued, over and ahead of all special purpose revenue bonds of any issue payable from the revenues which may be subsequently issued and over and ahead of any claims or obligations of any nature against the revenues subsequently arising or subsequently incurred; provided that the department may reserve the right and privilege to subsequently issue additional series of special purpose revenue bonds, from time to time, payable from the revenues derived from such project agreement on a parity with the special purpose revenue bonds theretofore issued, and the subsequently issued series of special purpose revenue bonds may be secured, without priority by reason of date of sale, date of execution, or date of delivery, by a lien on the revenues in accordance with law, including this part.

**§39A- Special purpose revenue bonds not a general obligation of State.** No holder or holders of any special purpose revenue bonds issued under this part shall ever have the right to compel any exercise of taxing power of the State to pay such bonds or the interest thereon and no moneys other than the revenues pledged to such bonds shall be applied to the payment thereof. Each special purpose revenue bond issued under this part shall recite in substance that such bond, including interest thereon, is not a general obligation of the State and is payable solely from the revenues pledged to the payment thereof, and that such bond is not secured directly

or indirectly by the full faith and credit or the general credit of the State or by any revenues or taxes of the State other than the revenues specifically pledged thereto.

**§39A- Validity of special purpose revenue bonds.** The special purpose revenue bonds bearing the signature or facsimile signature of officers in office on the date of the signing thereof shall be valid and sufficient for all purposes, notwithstanding that before the delivery thereof and payment therefor any or all the persons whose signatures appear thereon shall have ceased to be officers of the department. Special purpose 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.

**§39A- Use of revenues derived from project agreement.** The department shall have the right to appropriate, apply, or expend the revenues derived with respect to the project agreement for a project for the following purposes:

- (1) To pay when due all special purpose revenue bonds, premiums if any, and interest thereon, for the payment of which the revenues are or have been pledged, charged, or otherwise encumbered, including reserves therefor; and
- (2) To the extent not paid by the project party to provide for all expenses of administration, operations, and maintenance of the project, including reserves therefor.

Unless and until adequate provision has been made for the foregoing purposes, the department shall not transfer the revenues derived from the project agreement to the general fund of the State.

**§39A- Special purpose revenue bonds exempt from taxation.** Special purpose revenue bonds and the income therefrom issued pursuant to this part shall be exempt from all state and county taxation except inheritance, transfer, and estate taxes.

**§39A- Exemption from taxation of department property.** All revenues derived by the department from any project or under the project agreement pertaining thereto shall be exempt from all state and county taxation. Any right, title, and interest of the department in any project shall also be exempt from all state and county taxation. Except as otherwise provided by law, the interest of the project party or user of such project in a project or under the project agreement or related agreement shall not be exempt from taxation to a greater extent than it would be if the costs of the project were directly financed by the project party or other user.

**§39A- Refunding special purpose revenue bonds.** The legislature, by act enacted by an affirmative vote of two-thirds of the members to which each house is entitled, may authorize the issuance of refunding special purpose revenue bonds for the purpose of refunding any special purpose revenue bonds then outstanding and issued under this part, whether or not such outstanding special purpose revenue bonds have matured or are then subject to redemption. The legislature may provide, by act enacted by the affirmative vote of two-thirds of the members to which each house is entitled, for the issuance of a single issue of special purpose revenue bonds for the combined purposes of (1) financing the cost of a project or improvement or expansion thereof, and (2) refunding special purpose revenue bonds which shall

theretofore have been issued under this part and shall then be outstanding, whether or not such outstanding special purpose revenue bonds have matured or are then subject to redemption. Nothing in this section shall require or be deemed to require the department to elect to redeem or prepay special purpose revenue bonds being refunded, or to redeem or prepay special purpose 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 instruments providing for the issuance thereof, or, in the event the department elects to redeem or prepay any such bonds, to redeem or prepay as of any particular date or dates. The issuance of such special purpose revenue bonds, the maturities and other details thereof, the right and remedies of the holders thereof, and the rights, powers, privileges, duties, and obligations of the department with respect to the same, shall be governed by the foregoing provisions of this part insofar as the same may be applicable.

**§39A- Status of special purpose revenue bonds under Uniform Commercial Code.** Notwithstanding any of the provisions of this part or any recitals in any special purpose revenue bonds issued under this part, all such special purpose revenue bonds shall be deemed to be investment securities under the Uniform Commercial Code, chapter 490, subject only to the provisions of the special purpose revenue bonds pertaining to registration.

**§39A- Special purpose revenue bonds as legal investments and lawful security.** The special purpose revenue bonds issued pursuant to this part shall be legal and authorized investments for banks, savings banks, trust companies, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for all public funds of the State or other political corporations or subdivisions of the State. Such special purpose revenue bonds shall be eligible to secure the deposit of any and all public funds of the State and any and all public funds of counties or other political corporations or subdivisions of the State, and such bonds shall be lawful and sufficient security for such deposits to the extent of their value when accompanied by all unmatured coupons appertaining thereto.

**§39A- Access to and public disclosure of financial records of project party.** (a) Each project party with a project agreement with the department shall allow the department full access to the project party's financial records. Upon the request of the department for the examination of any such financial records, the project party shall allow the department to examine the requested records within a reasonably prompt time from the date of the request. If the department requests copies of the records, the project party shall provide the copies.

(b) To provide the public with full knowledge of the use of the proceeds and benefits derived from special purpose revenue bonds issued under this part, the department shall require each project party with a project agreement with the department to make available to the public all relevant financial records which pertain to the use of or savings resulting from the use of special purpose revenue bonds.

(c) The department shall adopt rules under chapter 91 for the purposes of this section.

**§39A- Estimate of benefits.** (a) Each project party with a project agreement with the department shall estimate the benefits derived from the use of the proceeds of special purpose revenue bonds. The benefits estimated shall be based on the

creation of new jobs and potential effect on tax receipts. The format of and method for determining the estimates shall be established by the department and shall be uniform for each project party.

(b) To promote public understanding of the role played by special purpose revenue bonds in providing benefits to the general public, the department shall take appropriate steps to ensure public access to and scrutiny of the estimates determined under subsection (a).

(c) The department shall adopt rules under chapter 91 for the purposes of this section.

**§39A- Construction of this part.** The powers conferred by this part shall be in addition and supplemental to the powers conferred by any other law. Insofar as the provisions of this part are inconsistent with the provisions of any other law, this part shall be controlling."

SECTION 3. If any provision of this Act, or any provision of the part to be added pursuant hereto to chapter 39A, Hawaii Revised Statutes, or the application thereof to any person or circumstances is held invalid, the invalidity does not affect any other provisions of this Act or such part or the application thereof to other persons or circumstances which can be given effect without the invalid provision or application, and to this end the provisions of this Act and such part are severable.

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

(Approved June 10, 1981.)

## ACT 121

H.B. NO. 126

A Bill for an Act Relating to Processing Enterprises.

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

SECTION 1. The legislature finds that under Article VII, section 12, of the Constitution of the State of Hawaii, the legislature is authorized to enact enabling legislation to allow authorization by separate act of special purpose revenue bonds to assist processing enterprises, if it is in the public interest. The legislature declares and finds that enabling the State to issue special purpose revenue bonds to assist processing enterprises is a valid purpose and in the public interest.

The purpose of this Act, therefore, is to provide the enabling legislation for the issuance of special purpose revenue bonds for processing enterprises.

SECTION 2. Chapter 39A, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

### "PART . ASSISTING PROCESSING ENTERPRISES

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

- (1) "Department" means the department of budget and finance.
- (2) "Project" means any combination of land, buildings, and other improvements thereon, for use as a processing enterprise, including, without limiting the generality of the foregoing, machinery, equipment, furnish-

ings, and apparatus which shall be deemed necessary, suitable, or useful to such enterprise.

- (3) "Project agreement" means any agreement entered into under this part by the department with a project party to financially assist a processing enterprise from the proceeds of special purpose revenue bonds, including without limitation any loan agreement.
- (4) "Project party" means a person, firm, or corporation qualified to do business in this State and conducting or proposing to conduct a processing enterprise in this State.
- (5) "Special purpose revenue bonds" or "bonds" means bonds, notes, or other evidences of indebtedness of the State issued pursuant to this part.

**§39A- Department powers as to processing enterprises.** In addition to powers which it may now have, the department shall have all powers necessary or convenient to accomplish the purposes of this part. The powers of the department include, but are not limited to, the following:

- (1) Notwithstanding and without compliance with sections 103-7 and 103-22, but with the approval of the governor, to enter into and carry out a project agreement, or an amendment or supplement to an existing project agreement, with a project party, and to enter into and carry out any agreement whereby the obligation of a project party under a project agreement will be unconditionally guaranteed by a person other than a project party.
- (2) To issue special purpose revenue bonds pursuant to and in accordance with this part.
- (3) To lend the proceeds of the special purpose revenue bonds issued for a project to the project party for use and application by the project party for the acquisition, purchase, construction, reconstruction, improvement, betterment, extension, or maintenance of a project.
- (4) As security for the payment of the principal of, premium, if any, and interest of the special purpose revenue bonds issued for a project, to pledge, assign, hypothecate, or otherwise encumber all or any part of the revenues and receipts derived or to be derived by the department under the project agreement for the project for which such bonds are issued; to pledge and assign the interest and rights of the department under the project agreement or other agreement with respect to such project or such special purpose revenue bonds; and to pledge and assign any bond, debenture, note, or other evidence of indebtedness received by the department with respect to such project; or any combination of the foregoing.
- (5) To extend or renew any project agreement or any other agreement related thereto; provided that any such renewal or extension shall be subject to the approval of the governor unless made in accordance with provisions for such extension or renewal contained in a project agreement or related agreement theretofore approved by the governor.
- (6) To do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in this part.

**§39A- Compliance with state and local law.** The issuance of special purpose revenue bonds with respect to any project under this part shall not relieve any project

party or other user of such project from the laws, ordinances, and rules and regulations of the State or any political subdivision thereof, or any departments or boards thereof with respect to the construction, operation, and maintenance of projects, or zoning laws or regulations, obtaining of building permits, compliance with building and health codes and other laws, ordinances, or rules and regulations of similar nature pertaining to the project, and such laws shall be applicable to such party or such other user to the same extent they would be if the costs of the project were directly financed by the project party.

**§39A- Conditions precedent to negotiating and entering into a project agreement.** The department prior to entering into negotiations with respect to a project agreement or at any time during such negotiations shall require that as a condition to such negotiations or the continuation thereof the State shall be reimbursed for any and all costs and expenses incurred by it even though a project agreement may not be entered into and may further require the deposit of moneys with the department as security for such reimbursement. Any amount of such deposit in excess of the amount required to reimburse the State shall be returned by the department to the party which has made such deposit.

The department shall not enter into any project agreement with respect to any project unless the legislature shall have first authorized the issuance of special purpose revenue bonds to finance such project pursuant to section 39A- and the department has thereafter found and determined either that the project party is a responsible party, whether by reason of economic assets or experience in the type of enterprise to be undertaken through such project, or otherwise, or that the obligations of the project party under the project agreement will be unconditionally guaranteed by a person who is a responsible party, whether by reason of economic assets or experience in the type of enterprise to be undertaken through such project or otherwise.

**§39A- Project agreement.** No special purpose revenue bonds shall be issued unless at the time of issuance the department shall have entered into a project agreement with respect to the project for the financing of which such revenue bonds are to be issued. Any project agreement entered into by the department shall contain provisions unconditionally obligating the project party:

- (1) To pay to the department during the period or term of the project agreement, exclusive of any renewal or extension thereof and whether or not the project is used or occupied by the project party, such sum or sums, at such time or times, and in such amounts that will be at least sufficient:
  - (A) To pay the principal and interest on all special purpose revenue bonds issued with respect to the project as and when the same become due, including any premium payable upon any required redemption of such bonds;
  - (B) To establish or maintain such reserve, if any, as may be required by the instrument authorizing or securing the special purpose revenue bonds;
  - (C) To pay all fees and expenses (including the fees and expenses of the paying agents and trustees) incurred in connection with such special purpose revenue bonds; and
  - (D) To pay the expenses (direct or indirect) incurred by the State, as

determined by the department, in administering such bonds or in carrying out the project agreement.

- (2) To operate, maintain, and repair the project as long as the same is used as provided in the project agreement and to pay all costs of such operation, maintenance, and repair.

Moneys received by the department pursuant to paragraph (1)(D) shall not be, or be deemed to be, revenues of the project and shall be paid into the general fund of the State.

**§39A- Issuance of special purpose revenue bonds to finance projects.** In addition to the other powers which it may otherwise have, the department may issue special purpose revenue bonds to finance, in whole or in part, the costs of facilities of, or for, or to loan the proceeds of such bonds to assist project parties. All revenue bonds issued under this part are special purpose revenue bonds and the provisions of part III of chapter 39 shall not apply thereto. All special purpose revenue bonds shall be issued in the name of the department and not in the name of the State.

The department, in determining the cost of any project, may also include the following:

- (1) Financing charges, fees, and expenses of any trustee and paying agents for special purpose revenue bonds issued to pay the cost of such project;
- (2) Interest on such bonds and the expenses of the State in connection with such bonds and the project to be financed from the proceeds of such bonds accruing or incurred prior to and during the estimated period of construction and not exceeding twelve months thereafter;
- (3) Amounts necessary to establish or increase reserves for the special purpose revenue bonds;
- (4) The cost of plans, specifications, studies, surveys, and estimates of costs and of revenues;
- (5) Other expenses incidental to determining the feasibility or practicability of the project;
- (6) Administration expenses;
- (7) Legal, accounting, consulting, and other special service fees;
- (8) Interest cost incurred by the project party with respect to the project prior to the issuance of the special purpose revenue bonds; and
- (9) Such other costs, commissions, and expenses incidental to the construction, acquisition, reconstruction, renovation, rehabilitation, improvement, betterment, operation, maintenance, or extension of the project, the financing, placing of same in operation, and the issuance of the special purpose revenue bonds, whether incurred prior to or after the issuance of such bonds.

The legislature finds and determines that the exercise of the powers vested in the department by this part constitutes assistance to a manufacturing enterprise and that the issuance of special purpose revenue bonds to finance facilities of, or for, or to loan the proceeds of such bonds to assist, project parties, is in the public interest.

**§39A- Authorization of special purpose revenue bonds.** (a) Special purpose revenue bonds for each project of multiproject program shall be authorized by a separate act of the legislature, by an affirmative vote of two-thirds of the members to which each house is entitled; provided that the legislature shall find that the issuance

of such bonds is in the public interest. Special purpose revenue bonds issued pursuant to this part may be in one or more series for each project. The special purpose revenue bonds of each issue shall be dated, shall bear interest at such rate or rates, shall mature at such time or times not exceeding forty years from their respective date or dates, shall have such rank or priority and may be made redeemable before maturity at the option of the department, at such price or prices and under such term and conditions, all as may be determined by the department. The department shall determine the form of the special purpose revenue bonds, including any interest coupons to be attached thereto, and the manner of execution of the special purpose revenue bonds, and shall fix the denomination or denominations of the special purpose revenue bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. The special purpose revenue bonds may be issued in coupon or in registered form, or both, as the department may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The department may sell special purpose revenue bonds in such manner, either at public or private sale, and for such price as it may determine.

(b) Prior to the preparation of definitive special purpose revenue bonds, the department may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery.

(c) Should any bond issued under this part or any coupon appertaining thereto become mutilated or be lost, stolen, or destroyed, the department may cause a new bond or coupon of like date, number, and tenor to be executed and delivered in exchange and substitution for and upon the cancellation of such mutilated bond or coupon, or in lieu of and in substitution for such lost, stolen, or destroyed bond or coupon. Such new bond or coupon shall not be executed or delivered until the holder of the mutilated, lost, stolen, or destroyed bond or coupon has (1) paid the reasonable expense and charges in connection therewith, (2) in the case of a lost, stolen, or destroyed bond or coupon, has filed with the department or its fiduciary evidence satisfactory to such department or its fiduciary that such bond or coupon was lost, stolen, or destroyed and that the holder was the owner thereof, and (3) has furnished indemnity satisfactory to the department.

(d) The department may provide that CUSIP identification numbers shall be printed on such bonds. In the event such numbers are imprinted on any such bonds (1) no such 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 department or any officer or agent thereof, including any fiscal agent, paying agent, or registrar for such bonds, by reason of such numbers or any use made thereof, including any use thereof made by the department, any such officer, or any such agent, or by reason of any inaccuracy, error, or omission with respect thereto or in such use. The department may require that all costs of obtaining and imprinting such numbers shall be paid by the purchaser of such bonds. For the purpose of this subsection, the term "CUSIP identification numbers" means the numbering system adopted by the Committee for Uniform Security Identification Procedures formed by the Securities Industry Association.

**§39A- Special purpose revenue bond anticipation notes.** Whenever the department has authorized the issuance of special purpose revenue bonds under this part, special purpose revenue bond anticipation notes of the department may be issued in anticipation of the issuance of such bonds and of the receipt of the proceeds of sale thereof, for the purposes for which such bonds have been authorized. All special purpose revenue bond anticipation notes shall be authorized by the department, and the maximum principal amount of such notes shall not exceed the authorized principal amount of such bonds. The notes shall be payable solely from and secured solely by the proceeds of sale of the special purpose revenue bonds in anticipation of which the notes are issued and the revenues from which would be payable and by which would be secured such bonds; provided that to the extent that the principal of the notes shall be paid from moneys other than the proceeds of sale of such bonds, the maximum amount of bonds in anticipation of which the notes are issued that has been authorized shall be reduced by the amount of notes paid in such manner. The authorization, issuance, and the details of such notes shall be governed by the provisions of this part with respect to special purpose revenue bonds insofar as the same may be applicable; provided that each note, together with all renewals and extensions thereof, or refundings thereof by other notes issued under this section, shall mature within five years from the date of the original note.

**§39A- Powers with respect to and security for special purpose revenue bonds.** In order to secure the payment of any of the special purpose revenue bonds issued pursuant to this part, and interest thereon, or in connection with such bonds, the department shall have the power as to such bonds:

- (1) To pledge all or any part of the revenues derived by the department from the project agreement to the punctual payment of special purpose revenue bonds issued with respect to the project financed from proceeds thereof, and interest thereon, and to covenant against thereafter pledging any such revenues or receipts to any other bonds or any other obligations of the department for any other obligations of the department for any other purpose, except as otherwise stated in the law providing for the issuance of additional special purpose revenue bonds to be equally and ratably secured by a lien upon such revenues.
- (2) To pledge and assign the interest and right of the department under the project agreement and other agreements related thereto and the rights, duties, and obligations of the department thereunder, including the right to receive revenues thereunder.
- (3) To covenant as to the use and disposition of the proceeds from the sale of such bonds.
- (4) To covenant to set aside or pay over reserves and sinking funds for such bonds and as to the disposition thereof.
- (5) To covenant and prescribe as to what happenings or occurrences shall constitute "events of default" and the terms and conditions upon which any or all of such bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived.
- (6) To covenant as to the rights, liabilities, powers, and duties arising upon

- the breach by it of any covenant, condition, or obligation.
- (7) To designate a national or state bank or trust company within or without the State, incorporated in the United States, to serve as trustee for the holders of the special purpose revenue bonds and to enter into a trust indenture or trust agreement or indenture of mortgage with such trustee. The trustee may be authorized by the department to receive and receipt for, hold, and administer the proceeds of the special purpose revenue bonds issued for the project and to apply the proceeds to the purposes for which such bonds are issued, or to receive and receipt for, hold, and administer the revenues derived by the department under the project agreement and to apply such revenues to the payment of the principal and interest on such bonds, or both, and any excess revenues to the payment of expenses incurred by the State in administering such bonds or in carrying out the project agreement. In the event that such 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 as may be necessary or convenient or desirable in order to secure such bonds. The department may pledge and assign to the trustee the interest of the department under the project agreement and other agreements related thereto and the rights, duties, and obligations of the department thereunder, including the right to receive revenues thereunder. The department may appoint the trustee to serve as fiscal agent for the payment of the principal and interest, and for the purchase, registration, transfer, exchange, and redemption of the special purpose revenue bonds, and may authorize and empower the trustee to perform such functions with respect to such payment, purchase, registration, transfer, exchange, and redemption, as the department may deem necessary, advisable, or expedient, including without limitation the holding of the special purpose revenue bonds and coupons which have been paid and the supervision of the destruction thereof in accordance with law.
- (8) To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants and duties.
- (9) To make such covenants and do any and all acts and things as may be necessary or convenient or desirable in order to secure such bonds, notwithstanding that such covenants, acts, or things may not be enumerated herein; it being the purpose thereof to give the department power to do all things in the issuance of such bonds and for their security that may be consistent with the Constitution of the State of Hawaii.

**§39A- Security for special purpose revenue bonds.** Special purposes revenue bonds shall be payable solely from the revenues derived by the department from payments made to the department under the project agreement or other agreements entered into with respect to the project, and shall be secured solely by such revenues and by the pledges and assignments authorized by this part. All special purpose revenue bonds of the same issue, subject to the prior and superior rights of outstanding bonds, claims, obligations, or mechanic's and materialmen's liens, shall have a prior and paramount lien on the revenues derived from the project agreement with

respect to the project, for which such bonds have been issued, over and ahead of all special purpose revenue bonds of any issue payable from the revenues which may be subsequently issued and over and ahead of any claims or obligations of any nature against the revenues subsequently arising or subsequently incurred; provided that the department may reserve the right and privilege to subsequently issue additional series of special purpose revenue bonds, from time to time, payable from the revenues derived from such project agreement on a parity with the special purpose revenue bonds theretofore issued, and the subsequently issued series of special purpose revenue bonds may be secured, without priority by reason of date of sale, date of execution, or date of delivery, by a lien on the revenues in accordance with law, including this part.

**§39A- Special purpose revenue bonds not a general obligation of State.** No holder or holders of any special purpose revenue bonds issued under this part shall ever have the right to compel any exercise of taxing power of the State to pay such bonds or the interest thereon and no moneys other than the revenues pledged to such bonds shall be applied to the payment thereof. Each special purpose revenue bond issued under this part shall recite in substance that such bond, including interest thereon, is not a general obligation of the State and is payable solely from the revenues pledged to the payment thereof, and that such bond is not secured directly or indirectly by the full faith and credit or the general credit of the State or by any revenues or taxes of the State other than the revenues specifically pledged thereto.

**§39A- Validity of special purpose revenue bonds.** The special purpose revenue bonds bearing the signature or facsimile signature of officers in office on the date of the signing thereof shall be valid and sufficient for all purposes, notwithstanding that before the delivery thereof and payment therefor any or all the persons whose signatures appear thereon shall have ceased to be officers of the department. Special purpose 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.

**§39A- Use of revenues derived from project agreement.** The department shall have the right to appropriate, apply, or expend the revenues derived with respect to the project agreement for a project for the following purposes:

- (1) To pay when due all special purpose revenue bonds, premiums if any, and interest thereon, for the payment of which the revenues are or have been pledged, charged, or otherwise encumbered, including reserves therefore; and
- (2) To the extent not paid by the project party to provide for all expenses of administration, operations, and maintenance of the project, including reserves therefor.

Unless and until adequate provision has been made for the foregoing purposes, the department shall not transfer the revenues derived from the project agreement to the general fund of the State.

**§39A- Special purpose revenue bonds exempt from taxation.** Special purpose revenue bonds and the income therefrom issued pursuant to this part shall be exempt from all state and county taxation except inheritance, transfer, and estate taxes.

**§39A- Exemption from taxation of department property.** All revenues derived by the department from any project or under the project agreement pertaining thereto shall be exempt from all state and county taxation. Any right, title, and interest of the department in any project shall also be exempt from all state and county taxation. Except as otherwise provided by law, the interest of the project party or user of such project in a project or under the project agreement or related agreement shall not be exempt from taxation to a greater extent than it would be if the costs of the project were directly financed by the project party or other user.

**§39A- Refunding special purpose revenue bonds.** The legislature, by act enacted by an affirmative vote of two-thirds of the members to which each house is entitled, may authorize the issuance of refunding special purpose revenue bonds for the purpose of refunding any special purpose revenue bonds then outstanding and issued under this part, whether or not such outstanding special purpose revenue bonds have matured or are then subject to redemption. The legislature may provide, by act enacted by the affirmative vote of two-thirds of the members to which each house is entitled, for the issuance of a single issue of special purpose revenue bonds for the combined purposes of (1) financing the cost of a project or improvement or expansion thereof, and (2) refunding special purpose revenue bonds which shall theretofore have been issued under this part and shall then be outstanding, whether or not such outstanding special purpose revenue bonds have matured or are then subject to redemption. Nothing in this section shall require or be deemed to require the department to elect to redeem or prepay special purpose revenue bonds being refunded, or to redeem or prepay special purpose 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 instruments providing for the issuance thereof, or, in the event the department elects to redeem or prepay any such bonds, to redeem or prepay as of any particular date or dates. The issuance of such special purpose revenue bonds, the maturities and other details thereof, the right and remedies of the holders thereof, and the rights, powers, privileges, duties, and obligations of the department with respect to the same, shall be governed by the foregoing provisions of this part insofar as the same may be applicable.

**§39A- Status of special purpose revenue bonds under Uniform Commercial Code.** Notwithstanding any of the provisions of this part or any recitals in any special purpose revenue bonds issued under this part, all such special purpose revenue bonds shall be deemed to be investment securities under the Uniform Commercial Code, chapter 490, subject only to the provisions of the special purpose revenue bonds pertaining to registration.

**§39A- Special purpose revenue bonds as legal investments and lawful security.** The special purpose revenue bonds issued pursuant to this part shall be legal and authorized investments for banks, savings banks, trust companies, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for all public funds of the State or other political corporations or subdivisions of the State. Such special purpose revenue bonds shall be eligible to secure the deposit of any and all public funds of the State and any and all public funds of counties or other political corporations or subdivisions of the State, and such bonds shall be lawful and sufficient security for such deposits to the extent of their value when accompanied by all

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unmatured coupons appertaining thereto.

**§39A- Access to and public disclosure of financial records of project party.** (a) Each project party with a project agreement with the department shall allow the department full access to the project party's financial records. Upon the request of the department for the examination of any such financial records, the project party shall allow the department to examine the requested records within a reasonably prompt time from the date of the request. If the department requests copies of the records, the project party shall provide the copies.

(b) To provide the public with full knowledge of the use of the proceeds and benefits derived from special purpose revenue bonds issued under this part, the department shall require each project party with a project agreement with the department to make available to the public all relevant financial records which pertain to the use of or savings resulting from the use of special purpose revenue bonds.

(c) The department shall adopt rules under chapter 91 for the purposes of this section.

**§39A- Estimate of benefits.** (a) Each project party with a project agreement with the department shall estimate the benefits derived from the use of the proceeds of special purpose revenue bonds. The benefits estimated shall be based on the creation of new jobs and potential effect on tax receipts. The format of and method for determining the estimates shall be established by the department and shall be uniform for each project party.

(b) To promote public understanding of the role played by special purpose revenue bonds in providing benefits to the general public, the department shall take appropriate steps to ensure public access to and scrutiny of the estimates determined under subsection (a).

(c) The department shall adopt rules under chapter 91 for the purposes of this section.

**§39A- Construction of this part.** The powers conferred by this part shall be in addition and supplemental to the powers conferred by any other law. Insofar as the provisions of this part are inconsistent with the provisions of any other law, this part shall be controlling."

**SECTION 3.** If any provision of this Act, or any provision of the part to be added pursuant hereto to chapter 39A, Hawaii Revised Statutes, or the application thereof to any person or circumstances is held invalid, the invalidity does not affect any other provision of this Act or such part or the application thereof to other persons or circumstances which can be given effect without the invalid provision or application, and to this end the provisions of this Act and such part are severable.

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

(Approved June 10, 1981.)

ACT 122

H.B. NO. 127

A Bill for an Act Relating to Industrial Enterprises.

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

SECTION 1. The legislature finds that under Article VII, section 12, of the Constitution of the State of Hawaii, the legislature is authorized to enact enabling legislation to allow authorization by separate act of special purpose revenue bonds to assist industrial enterprises if it is in the public interest. The legislature declares and finds that enabling the State to issue special purpose revenue bonds to assist industrial enterprises is a valid public purpose and in the public interest.

The purpose of this Act, therefore, is to provide the enabling legislation for the issuance of special purpose revenue bonds for industrial enterprises, including but not limited to, high technology enterprises.

SECTION 2. Chapter 39A, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

### **"PART . ASSISTING INDUSTRIAL ENTERPRISES**

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

- (1) "Department" means the department of budget and finance.
- (2) "Project" means any combination of land, buildings, and other improvements thereon, for use as an industrial enterprise, including, without limiting the generality of the foregoing, machinery, equipment, furnishings, and apparatus which shall be deemed necessary, suitable, or useful to such enterprise.
- (3) "Project agreement" means any agreement entered into under this part by the department with a project party to finance, construct, operate, or maintain an industrial plant from the proceeds of special purpose revenue bonds, including without limitation any loan agreement.
- (4) "Project party" means a person, firm, or corporation qualified to do business in this State and conducting or proposing to conduct an industrial enterprise in this State.
- (5) "Special purpose revenue bonds" or "bonds" means bonds, notes, or other evidences of indebtedness of the State issued pursuant to this part.

**§39A- Department powers as to industrial enterprises.** In addition to powers which it may now have, the department shall have all powers necessary or convenient to accomplish the purposes of this part. The powers of the department include, but are not limited to, the following:

- (1) Notwithstanding and without compliance with sections 103-7 and 103-22, but with the approval of the governor, to enter into and carry out a project agreement, or an amendment or supplement to an existing project agreement, with a project party, and to enter into and carry out any agreement whereby the obligation of a project party under a project agreement will be unconditionally guaranteed by a person other than a project party.
- (2) To issue special purpose revenue bonds pursuant to and in accordance with this part.
- (3) To lend the proceeds of the special purpose revenue bonds issued for a project to the project party for use and application by the project party for the acquisition, purchase, construction, reconstruction, improvement, betterment, extension, or maintenance of a project.

- (4) As security for the payment of the principal of, premium, if any, and interest of the special purpose revenue bonds issued for a project, to pledge, assign, hypothecate, or otherwise encumber all or any part of the revenues and receipts derived or to be derived by the department under the project agreement for the project for which such bonds are issued; to pledge and assign the interest and rights of the department under the project agreement or other agreement with respect to such project or such special purpose revenue bonds; and to pledge and assign any bond, debenture, note, or other evidence of indebtedness received by the department with respect to such project; or any combination of the foregoing.
- (5) To extend or renew any project agreement or any other agreement related thereto; provided that any such renewal or extension shall be subject to the approval of the governor unless made in accordance with provisions for such extension or renewal contained in a project agreement or related agreement theretofore approved by the governor.
- (6) To do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in this part.

**§39A- Compliance with state and local law.** The issuance of special purpose revenue bonds with respect to any project under this part shall not relieve any project party or other user of such project from the laws, ordinances, and rules and regulations of the State or any political subdivision thereof, or any departments or boards thereof with respect to the construction, operation, and maintenance of projects, or zoning laws or regulations, obtaining of building permits, compliance with building and health codes and other laws, ordinances, or rules and regulations of similar nature pertaining to the project, and such laws shall be applicable to such party or such other user to the same extent they would be if the costs of the project were directly financed by the project party.

**§39A- Conditions precedent to negotiating and entering into a project agreement.** The department prior to entering into negotiations with respect to a project agreement or at any time during such negotiations shall require that as a condition to such negotiations or the continuation thereof the State shall be reimbursed for any and all costs and expenses incurred by it even though a project agreement may not be entered into and may further require the deposit of moneys with the department as security for such reimbursement. Any amount of such deposit in excess of the amount required to reimburse the State shall be returned by the department to the party which has made such deposit.

The department shall not enter into any project agreement with respect to any project unless the legislature shall have first authorized the issuance of special purpose revenue bonds to finance such project pursuant to section 39A- and the department has thereafter found and determined either that the project party is a responsible party, whether by reason of economic assets or experience in the type of enterprise to be undertaken through such project, or otherwise, or that the obligations of the project party under the project agreement will be unconditionally guaranteed by a person who is a responsible party, whether by reason of economic assets or experience in the type of enterprise to be undertaken through such project, or otherwise.

**§39A- Project agreement.** No special purpose revenue bonds shall be issued unless at the time of issuance the department shall have entered into a project agreement with respect to the project for the financing of which such revenue bonds are to be issued. Any project agreement entered into by the department shall contain provisions unconditionally obligating the project party:

- (1) To pay to the department during the period or term of the project agreement, exclusive of any renewal or extension thereof and whether or not the project is used or occupied by the project party, such sum or sums, at such time or times, and in such amounts that will be at least sufficient:
  - (A) To pay the principal and interest on all special purpose revenue bonds issued with respect to the project as and when the same become due, including any premium payable upon any required redemption of such bonds;
  - (B) To establish or maintain such reserve, if any, as may be required by the instrument authorizing or securing the special purpose revenue bonds;
  - (C) To pay all fees and expenses (including the fees and expenses of the paying agents and trustees) incurred in connection with such special purpose revenue bonds; and
  - (D) To pay the expenses (direct or indirect) incurred by the State, as determined by the department, in administering such bonds or in carrying out the project agreement.
- (2) To operate, maintain, and repair the project as long as the same is used as provided in the project agreement and to pay all costs of such operation, maintenance, and repair.

Moneys received by the department pursuant to paragraph (1)(D) shall not be, or be deemed to be, revenues of the project and shall be paid into the general fund of the State.

**§39A- Issuance of special purpose revenue bonds to finance projects.** In addition to the other powers which it may otherwise have, the department may issue special purpose revenue bonds to finance, in whole or in part, the costs of facilities of, or for, or to loan the proceeds of such bonds to assist project parties. All revenue bonds issued under this part are special purpose revenue bonds and the provisions of part III of chapter 39 shall not apply thereto. All special purpose revenue bonds shall be issued in the name of the department and not in the name of the State.

The department in determining the cost of any project, may also include the following:

- (1) Financing charges, fees, and expenses of any trustee and paying agents for special purpose revenue bonds issued to pay the cost of such project;
- (2) Interest on such bonds and the expenses of the State in connection with such bonds and the project to be financed from the proceeds of such bonds accruing or incurred prior to and during the estimated period of construction and for not exceeding twelve months thereafter;
- (3) Amounts necessary to establish or increase reserves for the special purpose revenue bonds;
- (4) The cost of plans, specifications, studies, surveys, and estimates of costs and of revenues;

- (5) Other expenses incidental to determining the feasibility or practicability of the project;
- (6) Administration expenses;
- (7) Legal, accounting, consulting, and other special service fees;
- (8) Interest cost incurred by the project party with respect to the project prior to the issuance of the special purpose revenue bonds; and
- (9) Such other costs, commissions, and expenses incidental to the construction, acquisition, reconstruction, renovation, rehabilitation, improvement, betterment, operation, maintenance, or extension of the project, the financing, placing of same in operation, and the issuance of the special purpose revenue bonds, whether incurred prior to or after the issuance of such bonds.

The legislature finds and determines that the exercise of the powers vested in the department by this part constitutes assistance to an industrial enterprise and that the issuance of special purpose revenue bonds to finance facilities of, or for, or to loan the proceeds of such bonds to assist, project parties, is in the public interest.

**§39A- Authorization of special purpose revenue bonds.** (a) Special purpose revenue bonds for each project or multiproject program shall be authorized by a separate act of the legislature, by an affirmative vote of two-thirds of the members to which each house is entitled; provided that the legislature shall find that the issuance of such bonds is in the public interest. Special purpose revenue bonds issued pursuant to this part may be in one or more series for each project. The special purpose revenue bonds of each issue shall be dated, shall bear interest at such rate or rates, shall mature at such time or times not exceeding forty years from their date or dates, shall have such rank or priority and may be made redeemable before maturity at the option of the department, at such price or prices and under such terms and conditions, all as may be determined by the department. The department shall determine the form of the special purpose revenue bonds, including any interest coupons to be attached thereto, and the manner of execution of the special purpose revenue bonds, and shall fix the denomination or denominations of the special purpose revenue bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. The special purpose revenue bonds may be issued in coupon or in registered form, or both, as the department may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The department may sell special purpose revenue bonds in such manner, either at public or private sale, and for such price as it may determine.

(b) Prior to the preparation of definitive special purpose revenue bonds, the department may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery.

(c) Should any bond issued under this part or any coupon appertaining thereto become mutilated or be lost, stolen, or destroyed, the department may cause a new bond or coupon of like date, number, and tenor to be executed and delivered in exchange and substitution for, and upon the cancellation of such mutilated bond or coupon, or in lieu of and in substitution for such lost, stolen, or destroyed bond or

coupon. Such new bond or coupon shall not be executed or delivered until the holder of the mutilated, lost, stolen, or destroyed bond or coupon has (1) paid the reasonable expense and charges in connection therewith, (2) in the case of a lost, stolen, or destroyed bond or coupon, has filed with the department or its fiduciary evidence satisfactory to such department or its fiduciary that such bond or coupon was lost, stolen, or destroyed and that the holder was the owner thereof, and (3) has furnished indemnity satisfactory to the department.

(d) The department may provide that CUSIP identification numbers shall be printed on such bonds. In the event such numbers are imprinted on any such bonds (1) no such 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 department or any officer or agent thereof, including any fiscal agent, paying agent, or registrar for such bonds, by reason of such numbers or any use made thereof, including any use thereof made by the department, any such officer, or any such agent, or by reason of any inaccuracy, error, or omission with respect thereto or in such use. The department may require that all costs of obtaining and imprinting such numbers shall be paid by the purchaser of such bonds. For the purpose of this subsection, the term "CUSIP identification numbers" means the numbering system adopted by the Committee for Uniform Security Identification Procedures formed by the Securities Industry Association.

**§39A- Special purpose revenue bond anticipation notes.** Whenever the department has authorized the issuance of special purpose revenue bonds under this part, special purpose revenue bond anticipation notes of the department may be issued in anticipation of the issuance of such bonds and of the receipt of the proceeds of sale thereof, for the purposes for which such bonds have been authorized. All special purpose revenue bond anticipation notes shall be authorized by the department, and the maximum principal amount of such notes shall not exceed the authorized principal amount of such bonds. The notes shall be payable solely from and secured solely by the proceeds of sale of the special purpose revenue bonds in anticipation of which the notes are issued and the revenues from which would be payable and by which would be secured such bonds; provided that to the extent that the principal of the notes shall be paid from moneys other than the proceeds of sale of such bonds, the maximum amount of bonds in anticipation of which the notes are issued that has been authorized shall be reduced by the amount of notes paid in such manner. The authorization, issuance, and the details of such notes shall be governed by the provisions of this part with respect to special purpose revenue bonds insofar as the same may be applicable; provided that each note, together with all renewals and extensions thereof, or refundings thereof by other notes issued under this section, shall mature within five years from the date of the original note.

**§39A- Powers with respect to and security for special purpose revenue bonds.** In order to secure the payment of any of the special purpose revenue bonds issued pursuant to this part, and interest thereon, or in connection with such bonds, the department shall have the power as to such bonds:

- (1) To pledge all or any part of the revenues derived by the department from the project agreement to the punctual payment of special purpose revenue bonds issued with respect to the project financed from proceeds thereof,

and interest thereon, and to covenant against thereafter pledging any such revenues or receipts to any other bonds or any other obligations of the department for any other purpose, except as otherwise stated in the law providing for the issuance of additional special purpose revenue bonds to be equally and ratably secured by a lien upon such revenues.

- (2) To pledge and assign the interest and right of the department under the project agreement and other agreements related thereto and the rights, duties, and obligations of the department thereunder, including the right to receive revenues thereunder.
- (3) To covenant as to the use and disposition of the proceeds from the sale of such bonds.
- (4) To covenant to set aside or pay over reserves and sinking funds for such bonds and as to the disposition thereof.
- (5) To covenant and prescribe as to what happenings or occurrences shall constitute "events of default" and the terms and conditions upon which any or all of such bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived.
- (6) To covenant as to the rights, liabilities, powers, and duties arising upon the breach by it of any covenant, condition, or obligation.
- (7) To designate a national or state bank or trust company within or without the State, incorporated in the United States, to serve as trustee for the holders of the special purpose revenue bonds and to enter into a trust indenture or trust agreement or indenture of mortgage with such trustee. The trustee may be authorized by the department to receive and receipt for, hold, and administer the proceeds of the special purpose revenue bonds issued for the project and to apply the proceeds to the purposes for which such bonds are issued, or to receive and receipt for, hold, and administer the revenues derived by the department under the project agreement and to apply such revenues to the payment of the principal and interest on such bonds, or both, and any excess revenues to the payment of expenses incurred by the State in administering such bonds or in carrying out the project agreement. In the event that such 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 as may be necessary or convenient or desirable in order to secure such bonds. The department may pledge and assign to the trustee the interest of the department under the project agreement and other agreements related thereto and the rights, duties, and obligations of the department thereunder, including the right to receive revenues thereunder. The department may appoint the trustee to serve as fiscal agent for the payment of the principal and interest, and for the purchase, registration, transfer, exchange, and redemption of the special purpose revenue bonds, and may authorize and empower the trustee to perform such functions with respect to such payment, purchase, registration, transfer, exchange, and redemption, as the department may deem necessary, advisable, or expedient, including without limitation the holding of

the special purpose revenue bonds and coupons which have been paid and the supervision of the destruction thereof in accordance with law.

- (8) To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants and duties.
- (9) To make such covenants and do any and all acts and things as may be necessary or convenient or desirable in order to secure such bonds, notwithstanding that such covenants, acts, or things may not be enumerated herein; it being the purpose thereof to give the department power to do all things in the issuance of such bonds and for their security that may be consistent with the Constitution of the State of Hawaii.

**§39A- Security for special purpose revenue bonds.** Special purpose revenue bonds shall be payable solely from the revenues derived by the department from payments made to the department under the project agreement or other agreements entered into with respect to the project, and shall be secured solely by such revenues and by the pledges and assignments authorized by this part. All special purpose revenue bonds of the same issue, subject to the prior and superior rights of outstanding bonds, claims, obligations, or mechanic's and materialman's liens, shall have a prior and paramount lien on the revenues derived from the project agreement with respect to the project, for which such bonds have been issued, over and ahead of all special purpose revenue bonds of any issue payable from the revenues which may be subsequently issued and over and ahead of any claims or obligations of any nature against the revenues subsequently arising or subsequently incurred; provided that the department may reserve the right and privilege to subsequently issue additional series of special purpose revenue bonds, from time to time, payable from the revenues derived from such project agreement on a parity with the special purpose revenue bonds theretofor issued, and the subsequently issued series of special purpose revenue bonds may be secured, without priority by reason of date of sale, date of execution, or date of delivery, by a lien on the revenues in accordance with law, including this part.

**§39A- Special purpose revenue bonds not a general obligation of State.** No holder or holders of any special purpose revenue bonds issued under this part shall ever have the right to compel any exercise of taxing power of the State to pay such bonds or the interest thereon and no moneys other than the revenues pledged to such bonds shall be applied to the payment thereof. Each special purpose revenue bond issued under this part shall recite in substance that such bond, including interest thereon, is not a general obligation of the State and is payable solely from the revenues pledged to the payment thereof, and that such bond is not secured directly or indirectly by the full faith and credit or the general credit of the State or by any revenues or taxes of the State other than the revenues specifically pledged thereto.

**§39A- Validity of special purpose revenue bonds.** The special purpose revenue bonds bearing the signature or facsimile signature of officers in office on the date of the signing thereof shall be valid and sufficient for all purposes, notwithstanding that before the delivery thereof and payment therefor any or all the persons whose signatures appear thereon shall have ceased to be officers of the department. Special purpose 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 regu-

larity of their issuance.

**§39A- Use of revenues derived from project agreement.** The department shall have the right to appropriate, apply, or expend the revenues derived with respect to the project agreement for a project for the following purposes:

- (1) To pay when due all special purpose revenue bonds, premiums if any, and interest thereon, for the payment of which the revenues are or have been pledged, charged, or otherwise encumbered, including reserves therefore; and
- (2) To the extent not paid by the project party to provide for all expenses of administration, operations, and maintenance of the project, including reserves therefor.

Unless and until adequate provision has been made for the foregoing purposes, the department shall not transfer the revenues derived from the project agreement to the general fund of the State.

**§39A- Special purpose revenue bonds exempt from taxation.** Special purpose revenue bonds and the income therefrom issued pursuant to this part shall be exempt from all state and county taxation except inheritance, transfer, and estate taxes.

**§39A- Exemption from taxation of department property.** All revenues derived by the department from any project or under the project agreement pertaining thereto shall be exempt from all state and county taxation. Any right, title, and interest of the department in any project shall also be exempt from all state and county taxation. Except as otherwise provided by law, the interest of the project party or user of such project in a project or under the project agreement or related agreement shall not be exempt from taxation to a greater extent than it would be if the costs of the project were directly financed by the project party or other user.

**§39A- Refunding special purpose revenue bonds.** The legislature, by act enacted by an affirmative vote of two-thirds of the members to which each house is entitled, may authorize the issuance of refunding special purpose revenue bonds for the purpose of refunding any special purpose revenue bonds then outstanding and issued under this part, whether or not such outstanding special purpose revenue bonds have matured or are then subject to redemption. The legislature may provide, by act enacted by an affirmative vote of two-thirds of the members to which each house is entitled, for the issuance of a single issue of special purpose revenue bonds for the combined purposes of: (1) financing the cost of a project or improvement or expansion thereof, and (2) refunding special purpose revenue bonds which shall theretofore have been issued under this part and shall then be outstanding, whether or not such outstanding special purpose revenue bonds have matured or are then subject to redemption. Nothing in this section shall require or be deemed to require the department to elect to redeem or prepay special purpose revenue bonds being refunded, or to redeem or prepay special purpose 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 instruments providing for the issuance thereof, or, in the event the department elects to redeem or prepay any such bonds, to redeem or prepay as of any particular date or dates. The issuance of such special purpose revenue bonds, the maturities and other details thereof, the rights

and remedies of the holders thereof, and the rights, powers, privileges, duties, and obligations of the department with respect to the same, shall be governed by the foregoing provisions of this part insofar as the same may be applicable.

**§39A- Status of special purpose revenue bonds under the Uniform Commercial Code.** Notwithstanding any of the provisions of this part or any recitals in any special purpose revenue bonds issued under this part, all such special purpose revenue bonds shall be deemed to be investment securities under the Uniform Commercial Code, chapter 490, subject only to the provisions of the special purpose revenue bonds pertaining to registration.

**§39A- Special purpose revenue bonds as legal investments and lawful security.** The special purpose revenue bonds issued pursuant to this part shall be legal and authorized investments for banks, savings banks, trust companies, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for all public funds of the State or other political corporations or subdivisions of the State. Such special purpose revenue bonds shall be eligible to secure the deposit of any and all public funds of the State and any and all public funds of counties or other political corporations or subdivisions of the State, and such bonds shall be lawful and sufficient security for such deposits to the extent of their value when accompanied by all unmatured coupons appertaining thereto.

**§39A- Access to and public disclosure of financial records of project party.** (a) Each project party with a project agreement with the department shall allow the department full access to the project party's financial records. Upon the request of the department for the examination of any such financial records, the project party shall allow the department to examine the requested records within a reasonably prompt time from the date of the request. If the department requests copies of the records, the project party shall provide the copies.

(b) To provide the public with full knowledge of the use of the proceeds and benefits derived from special purpose revenue bonds issued under this part, the department shall require each project party with a project agreement with the department to make available to the public all relevant financial records which pertain to the use of or savings resulting from the use of special purpose revenue bonds.

(c) The department shall adopt rules under chapter 91 for the purposes of this section.

**§39A- Estimate of benefits.** (a) Each project party with a project agreement with the department shall estimate the benefits derived from the use of the proceeds of special purpose revenue bonds. The benefits estimated shall be based on the creation of new jobs and potential effect on tax receipts. The format of and method for determining the estimates shall be established by the department and shall be uniform for each project party.

(b) To promote public understanding of the role played by special purpose revenue bonds in providing benefits to the general public, the department shall take appropriate steps to ensure public access to and scrutiny of the estimates determined under subsection (a).

(c) The department shall adopt rules under chapter 91 for the purposes of this section.

## ACT 123

**§39A- Construction of this part.** The powers conferred by this part shall be in addition and supplemental to the powers conferred by any other law. Insofar as the provisions of this part are inconsistent with the provisions of any other law, this part shall be controlling."

SECTION 3. If any provision of this Act, or any provision of the part to be added pursuant hereto to chapter 39A, Hawaii Revised Statutes, or the application thereof to any person or circumstances is held invalid, the invalidity does not affect any other provision of this Act or such part or the application thereof to other persons or circumstances which can be given effect without the invalid provision or application, and to this end the provisions of this Act and such part are severable.

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

(Approved June 10, 1981.)

## ACT 123

H.B. NO. 200

A Bill for an Act Relating to Public Health and Morals.

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

SECTION 1. Chapter † 712-1247, Hawaii Revised Statutes, is amended by adding a new subsection to read as follows:

"(3) Any marijuana seized as evidence of a violation of this section in excess of ten pounds may be destroyed after it has been photographed and the weight thereof recorded. The remainder of the marijuana shall remain in the custody of the police department until the termination of any criminal action brought as a result of the seizure of the marijuana. Photographs duly identified as accurately representing the marijuana shall be deemed competent evidence of the marijuana involved and shall be admissible in any proceeding, hearing or trial to the same extent as the marijuana itself. Provided, however, that nothing in this subsection shall be construed to limit or to restrict the application of Rule 901 of the Hawaii Rules of Evidence."

SECTION 2. New statutory material is underscored.\*

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

(Approved June 10, 1981.)

## ACT 124

H.B. NO. 204

A Bill for an Act Relating to the Penal Code.

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

SECTION 1. Chapter 708, Hawaii Revised Statutes is amended by adding a new section to be appropriately designated and read as follows:

†So in original.

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

**“§708- Property recovered in burglary, theft, and related offenses.** Identification of an item of property recovered for violation of part II and IV of chapter 708, Hawaii Revised Statutes may be made by photographing the items and authentication of the content of the photograph. Such photograph shall be deemed competent evidence of the item photographed and admissible in any proceeding, hearing, or trial for violation of the chapter.

Provided, however, that nothing in this section shall be construed to limit or to restrict the application of Rule 901 of the Hawaii Rules of Evidence.”

**SECTION 2.** New statutory material is underscored.\*

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

(Approved June 10, 1981.)

**ACT 125**

**H.B. NO. 1103**

A Bill for an Act Relating to the Uniform Controlled Substances Act.

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

**SECTION 1.** Section 329-16, Hawaii Revised Statutes, is amended by amending subsection (c) to read 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) Alphaprodine;
- (2) Anileridine;
- [(3)] Apomorphine;
- [(4)] (3) Bezitramide;
- (4) Bulk Dextropropoxyphene (nondosage form)
- (5) Dihydrocodeine;
- (6) Diphenoxylate;
- (7) Fentanyl;
- (8) Isomethadone;
- (9) Levomethorphan;
- (10) Levorphanol;
- (11) Metazocine;
- (12) Methadone;
- (13) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
- (14) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;
- (15) Pethidine;
- (16) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- (17) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine[;]-4-carboxylate;

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## **ACT 126**

- (18) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (19) Phenazocine;
- (20) Piminodine;
- (21) Racemethorphan;
- (22) Racemorphan."

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

"(f) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a degree of danger or probable danger associated with a stimulant effect on the central nervous system:

- (1) Phenmetrazine and its salts;
- (2) Phenylacetone (P2P);
- [(2)] (3) Methylphenidate."

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

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

(Approved June 10, 1981.)

## **ACT 126**

H.B. NO. 1107

A Bill for an Act Relating to Housing.

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

SECTION 1. Section 359G-6, Hawaii Revised Statutes, is amended by amending subsection (c) to read:

"(c) The authority shall have sole control of the partnership, shall keep all books of the partnership, and shall ascertain all costs of the partnership, including the cost of services performed by any other partners and it shall audit the same. The other partners shall perform services for the partnership under the direction of the authority and shall be reimbursed for all costs relating to the project as certified by the authority including administrative and overhead costs. Additionally the other partners shall, upon transfer of title by the authority to the purchaser, be entitled to a guaranteed gross share if the actual cost of the project does not exceed the original project cost. The gross share shall not exceed fifteen per cent of the original project cost pro rated to the dwelling units, less any amount subsidized by the State. Subsidies shall include unrecovered development and land costs and any other subsidized items as defined in rules to be adopted by the authority pursuant to chapter 91. The percentage of such share shall be determined by the authority by contract with the partner based upon the nature of the services rendered by them. For purposes of this subsection, "original project cost" means the original budget of a project as approved by the authority without modification at a later date."

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 10, 1981.)

ACT 127

H.B. NO. 1108

A Bill for an Act Relating to Leahi Hospital.

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

SECTION 1. Section 323-6, Hawaii Revised Statutes, is amended to read:

**"§323-6 Transfer of employees; management of hospital, University of Hawaii programs, etc., cooperation.** The employees of Leahi Hospital employed on July 1, 1976, are transferred to the department of health and shall thereafter be state employees and enjoy all of the rights, privileges, and benefits and be subject to the duties and responsibilities of employees of the State.

The department shall operate and manage Leahi Hospital and perform all acts necessary or convenient to such management and control. All acts heretofore performed in this connection by the university are hereby ratified and confirmed.

Nothing in this section shall affect in any way the educational, training, and research programs and activities of the University of Hawaii at Leahi Hospital.

The department of health and the University of Hawaii shall, pursuant to contract or informal agreement, cooperate in arrangements appropriate to their respective jurisdictions and functions at Leahi Hospital.

Any other law to the contrary notwithstanding, Leahi Hospital shall place its revenues and all other moneys collected or acquired or made available for the use of the hospital into a special fund to be used for the payment of its lawful expenditures."

SECTION 2. Statutory material to be repealed is bracketed.\*

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

(Approved June 10, 1981.)

ACT 128

H.B. NO. 1124

A Bill for an Act Relating to the Transfer of the Hawaii Criminal Justice Data Center from the Judiciary to the Department of the Attorney General.

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

SECTION 1. **Findings and purpose.** Act 269, Session Laws of Hawaii 1980, provided for the establishment of a Hawaii criminal justice data center to be attached to the judiciary for administrative purposes until July 1, 1981, and thereafter to be attached to the department of the attorney general for administrative purposes. No

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

provisions were made by the legislature, however, for the transfer of personnel, equipment, appropriations, authorizations, and other property. This Act provides for such transfer.

**SECTION 2. Rights and obligations of succeeding department.** On July 1, 1981, the department of the attorney general (hereinafter "succeeding department") shall assume all of the rights and powers exercised, and all of the duties and obligations incurred by the judiciary (hereinafter "former department") in the administration of the Hawaii criminal justice data center (hereinafter "data center") whether such powers, duties, and obligations are mentioned in or granted by any law, contract, or other document. All references in any such law, contract, or document to the former department in connection with the programs and organizational segments transferred shall apply to the succeeding department as if the latter were named in such law, contract, or document in place of the former department.

**SECTION 3. Transfer of personnel.** The transfer shall include all personnel, the major portion of whose functions and duties is in the transferred programs and organization segments.

No 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; provided that subsequent changes in status may be made pursuant to chapters 76 and 77, Hawaii Revised Statutes.

Any employee who, prior to this Act, was exempted from civil service and who may be transferred as a consequence of this Act, shall continue to retain the employee's exempt status and shall not be appointed to a civil service position because of this Act. Employees who may be transferred by this Act and who are receiving entitlements, benefits, or privileges in accordance with chapter 77, but not chapter 76 of the Hawaii Revised Statutes, shall continue to receive only those entitlements, benefits, or privileges received under chapter 77, Hawaii Revised Statutes, after such transfer.

**SECTION 4. Transfer of records, equipment, appropriations, authorizations, and other property.** All records, equipment, files, supplies, contracts, books, papers, documents, maps, appropriations, authorizations, and other property heretofore made, used, acquired, or held by the data center in the exercise of its programs shall be transferred to the succeeding department.

**SECTION 5. Prosecutions and civil actions.** No offense committed and no penalty or forfeiture incurred under the law shall be affected by this Act; provided that whenever any punishment, penalty, or forfeiture is mitigated by an provision of this Act, such provision may be extended and applied to any judgment pronounced after the passage of this Act. No suit or prosecution pending at the time this Act takes effect shall be affected by this Act. The right of any administrative officer to institute proceedings for prosecution for an offense or an action to recover a penalty or forfeiture shall henceforth be vested in the head of the department or some person designated by the head of the department or as may be directed by law.

**SECTION 6. Appeals.** The right of appeal from administrative actions or determinations as provided by law shall not be impaired by this Act.

Except as otherwise provided by this Act, wherever a right of appeal from

administrative actions or determinations is provided by law, such right of appeal shall lie to or from the succeeding department. Such right of appeal shall exist to the same extent and in accordance with the procedures as immediately prior to the effective date of this Act.

If the provisions of the preceding paragraph relating to appeals cannot be effected by reason of the abolition, splitting, or shifting of functions or otherwise, the right of appeals shall lie to the circuit court of the State pursuant to the Hawaii Rules of Civil Procedure.

**SECTION 7. Continuity of administration.** Until so transferred, the data center shall continue to discharge its duties and functions with the same personnel and to the same extent as immediately prior to the effective date of this Act.

**SECTION 8.** This Act shall take effect on July 1, 1981.

(Approved June 10, 1981.)

## ACT 129

H.B. NO. 1158

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

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

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

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

- (1) Real estate loans and mortgages. Obligations (as defined in section 431-286) of any of the following classes:
  - (A) Obligations secured by mortgages of nonprofit corporations desiring to build multi-rental units (ten units or more) subject to control of the government for occupancy by families displaced as a result of government action.
  - (B) Obligations secured by mortgages insured by the federal housing administration.
  - (C) Obligations for the repayment of home loans made under the Servicemen's Readjustment Act of 1944 or under Title II of the National Housing Act.
  - (D) Other obligations secured by first mortgages on unencumbered improved real estate owned in fee simple, provided that the amount of the obligation shall not at the time investment is made therein exceed seventy-five per cent of the value of the real estate and improvements mortgaged to secure it, except that if the obligation is for an amount of \$75,000 or less, the amount of the obligation shall not exceed eighty per cent of the real estate and improvements mortgaged to secure it, and except that the amount of the obligation at the time investment is made therein may exceed seventy-five per cent but no more than ninety per cent of the value of the real estate and improvements mortgaged to secure it, provided that the obligation is insured or guaranteed against default or loss under a mortgage insurance policy issued by a casualty insurance company

licensed to do business in the State. The coverage provided by the insurer should be sufficient to reduce the system's exposure to not more than seventy-five per cent of the value of the real estate and improvements mortgaged to secure it. Such insurance coverage shall remain in force until the principal amount of the obligation is reduced to seventy-five per cent of the market value of the real estate and improvements mortgaged to secure it, at which time the coverage shall be subject to cancellation solely at the option of the board of trustees. Real estate shall not be deemed to be encumbered within the meaning of this subparagraph by reason of the existence of any of the restrictions, charges, or claims described in section 431-293(a).

- (E) Other obligations secured by first mortgages of leasehold interests in improved real estate, provided that (i) each such leasehold interest at such time shall have a current term extending at least two years beyond the stated maturity of the obligation it secures, and (ii) the amount of the obligation shall not at the time investment is made therein exceed seventy-five per cent of the value of the respective leasehold interest and improvements, except that if the obligation is for an amount of \$75,000 or less, the amount of the obligation shall not exceed eighty per cent of the value of the respective leasehold interest and improvements, and except that the amount of the obligation, at the time investment is made therein, may exceed seventy-five per cent but no more than ninety per cent of the value of the leasehold interest and improvements mortgaged to secure it, provided that the obligation is insured or guaranteed against default or loss under a mortgage insurance policy issued by a casualty insurance company licensed to do business in the State. The coverage provided by the insurer should be sufficient to reduce the system's exposure to not more than seventy-five per cent of the value of the leasehold interest and improvements mortgaged to secure it. Such insurance coverage shall remain in force until the principal amount of the obligation is reduced to seventy-five per cent of the market value of the leasehold interest and improvements mortgaged to secure it, at which time the coverage shall be subject to cancellation solely at the option of the board of trustees.
- (F) Obligations for the repayment of home loans guaranteed by the department of Hawaiian home lands pursuant to section 214(b) of the Hawaiian Homes Commission Act, 1920.

The board of trustees may retain such real estate, including leasehold interests therein, as it may acquire by foreclosure of mortgages or in enforcement of security, or as may be conveyed to it in satisfaction of debts previously contracted, provided that all such real estate, other than leasehold interests, shall be sold within five years after acquiring the same subject to extension by the governor for additional periods not exceeding five years each and all such leasehold interests shall be sold within one year after acquiring the same subject to extension by the governor for

- additional periods not exceeding one year each.
- (2) Government obligations, etc. Obligations of any of the following classes:
- (A) Obligations issued or guaranteed as to principal and interest by the United States or by any state thereof, or by the Dominion of Canada or by any province thereof, or by any municipal or political subdivision or school district of any of the foregoing, provided that principal of and interest on such obligations are payable in currency of the United States.
  - (B) Revenue bonds, whether or not permitted by any other provision hereof, of the State or any municipal or political subdivision thereof, including the board of water supply of the city and county of Honolulu, and street or improvement district bonds of any district or project in the State.
  - (C) Obligations issued or guaranteed by any federal home loan bank, including consolidated federal home loan bank obligations, the Home Owner's Loan Corporation, the Federal National Mortgage Association, or the Small Business Administration.
- (3) Corporate obligations. Obligations of any corporation created or existing under the laws of the United States or of any state or district thereof, and qualified under any of the following:
- (A) Fixed interest-bearing obligations, if the average annual net earnings of the obligor or guarantor available for its fixed charges for a period of five fiscal years next preceding the date of the investment have equalled at least one hundred and fifty per cent of its average annual fixed charges applicable to the period and if its net earnings for the last year of the period have equalled at least one hundred and fifty per cent of its fixed charges for such year.
  - (B) Fixed interest-bearing obligations secured by assignment of a lease or leases, or the rentals payable thereunder, of real or personal property (including, without limitation, charters of vessels) to a corporation created or existing under the laws of the United States or of any state or district thereof, provided that (i) the fixed rentals assigned shall be sufficient to repay the principal of and interest on the obligation within the unexpired term of the lease, exclusive of the term which may be provided by any option of renewal, and (ii) the net earnings of the corporation shall meet the requirements described in subparagraph (A).
  - (C) Fixed interest-bearing obligations secured by rights or assignment of rights under a contract (including, without limitation, a contract for the sale of products, materials, supplies, or other property, or for the furnishing of transportation of services) with a corporation created or existing under the laws of the United States or of any state or district thereof, provided that (i) the rights securing such obligations shall include the right to receive payments sufficient to repay the principal of and interest on the obligations within the unexpired term of the contract, and (ii) the net earnings of the cor-

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poration shall meet the requirements described in subparagraph (A).

As used in this paragraph, the terms "fixed charges" and "net earnings available for fixed charges" shall have the meanings and application ascribed thereto in sections 431-286 and 431-287.

- (4) Preferred and common stocks. Shares of preferred or common stock of any corporation created or existing under the laws of the United States or of any state or district thereof, provided that the book value of the total investment in such stocks shall at no time exceed forty per cent of the total book value of all investments of the system.
- (5) Obligations eligible by law for purchase in the open market by federal reserve banks.
- (6) Obligations issued or guaranteed by the International Bank for Reconstruction and Development, by the Inter-American Development Bank or by the Asian Development Bank.
- (7) Obligations secured by collateral consisting of any of the securities or stock listed above and worth, at the time the investment is made, at least fifteen per cent more than the amount of the respective obligations.
- (8) Insurance company obligations. Contracts and agreements supplemental thereto providing for participation in one or more accounts of a life insurance company authorized to do business in Hawaii, including its separate accounts, and whether the investments allocated thereto are comprised of stocks or other securities or of real or personal property or interests therein.
- (9) Other securities. Securities and stock in which in the informed opinion of the board of trustees it is prudent to invest funds of the system, whether or not the securities or stock are expressly authorized by or qualify under the foregoing paragraphs, and notwithstanding any limitation of any of the foregoing paragraphs (including paragraph (4)); provided that the total book value of investments under this paragraph shall at no time exceed ten per cent of the total book value of all investments of the system."

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 10, 1981.)

ACT 130

H.B. NO. 1233

A Bill for an Act Relating to the Office of Hawaiian Affairs Administrator.

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

SECTION 1. The purpose of this Act is to authorize the board of trustees of

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

the office of Hawaiian affairs to establish the salary of the administrator of the office of Hawaiian affairs; provided that such salary shall not exceed the salary of state department heads or executive officers.

SECTION 2. Section 10-11, Hawaii Revised Statutes, is amended to read as follows:

**“§10-11 Salary of the administrator.** The salary of the administrator shall be established by the board; provided that such salary shall not exceed the salary of department heads or executive officers established by law. The administrator shall be included in any benefit program generally applicable to officers and employees of the State.”

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

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

(Approved June 10, 1981.)

ACT 131

H.B. NO. 1267

A Bill for an Act Relating to the Use of Public Buildings By Blind or Visually Handicapped Persons.

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

SECTION 1. Chapter 102-14, Hawaii Revised Statutes, is amended to read as follows:

**“§102-14 Use of public buildings by blind or visually handicapped persons.** (a) For the purpose of providing blind or visually handicapped persons, as defined in sections 235-1, 347-1, and 347-2 with remunerative employment, enlarging their economic opportunities and stimulating them to greater efforts in striving to make themselves self-supporting, blind or visually handicapped persons registered by the department of social services and housing under section 347-6 and issued permits under subsection (c) shall be authorized to operate vending facilities and machines in any state or county public building for the vending of newspapers, periodicals, confections, tobacco products, foods, beverages, and such other articles or services prepared on or off the premises in accordance with all applicable laws.

(b) The department of social services and housing, after consultation with authorities responsible for management of state or county public buildings, shall adopt rules in accordance with chapter 91, necessary for the implementation of this section, including, but not limited to rules to assure that priority be given to registered blind or visually handicapped persons in the operation of vending facilities in state or county public buildings and to establish, whenever feasible, one or more vending facilities in all state and county public buildings.

(c) Assignment of vending facilities and space for vending machines shall be

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## **ACT 132**

by permit issued by the department of social services and housing.

(d) No person shall advertise or otherwise solicit the sale of food or beverages for human consumption in any public building which is in competition with a vending facility or machine operated or maintained by a duly authorized blind or visually handicapped person as prescribed by rules and regulations established under chapter 91, Hawaii Revised Statutes. Any person who violates this subsection shall be subject to a fine of not more than \$1,000.

(e) After July 1, 1981, or upon the expiration of vending machine contracts in existence on the effective date of this Act, no vending machines shall be placed in any state or county public building in which there is a vending facility or machine assigned by permit to a blind or visually handicapped person except pursuant to a permit issued by the department of social services and housing.

(f) Any permit granted pursuant hereto may be terminated by the department of social services and housing if the department determines that the vending facility or machine is not being operated in accordance with prescribed rules.

(g) This section shall not apply to the University of Hawaii system, department of education facilities, department of transportation airport and harbor restaurant and lounge facilities and operations, public parks, and state and county facilities designed and intended for use as facilities for entertainment and other public events.

(h) After July 1, 1981, any department, agency, or instrumentality of the state or any of its political subdivisions planning the construction, substantial alteration, or renovations of any building shall consider including plans for a vending facility maintained or operated by a blind or visually handicapped person. The present vendor who is operating a vending facility shall not be displaced or dislocated from any state or county building because of renovations or substantial alterations, except for any temporary displacement or dislocation which may be necessary for the completion of the renovations or alterations. Any such vendor shall have the first option to operate the facility upon completion of the renovations or substantial alterations."

**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 10, 1981.)

## **ACT 132**

**H.B. NO. 1334**

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

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

**SECTION 1.** Section 39-64, Hawaii Revised Statutes, is hereby amended to read:

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

**“§39-64 Execution of revenue bonds.** Revenue bonds issued pursuant to this part shall be executed by the head of the department or a deputy director designated by him and sealed with the seal of the department or in lieu thereof shall bear a lithographed or engraved facsimile of such seal. Further, they shall be countersigned by the state director of finance or in lieu thereof shall bear a lithographed or engraved facsimile of the signature of the director. The coupons pertaining to the bonds shall be executed with the lithographed or engraved facsimile signatures of the head of the department and the director of finance. In the case of a department having a governing body, the member thereof who is the chairman or other titular head shall, for the purposes hereof, be the head of the department.”

SECTION 2. New statutory material is underscored.

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

(Approved June 10, 1981.)

ACT 133

S.B. NO. 1096

A Bill for an Act Relating to Circuit Courts.

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

SECTION 1. Section 603-4, Hawaii Revised Statutes, is amended to read as follows:

**“§603-4 Other circuits, judges.** The circuit court of the fifth circuit shall consist of one judge, who shall be styled judge of the circuit court of the fifth circuit. The circuit court of the second circuit shall consist of two judges, who shall be styled as first and as second judge, respectively, and each as a judge of the circuit court of the second circuit. The circuit court of the third circuit shall consist of three judges, who shall be styled as first, second, and third judges, respectively, and each as a judge of the circuit court of the third circuit.”

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

SECTION 3. This Act shall take effect on July 1, 1981.

(Approved June 10, 1981.)

ACT 134

H.B. NO. 1126

A Bill for an Act Relating to the Hawaii Youth Correctional Facilities.

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

SECTION 1. Section 352-29, Hawaii Revised Statutes, is amended to read:

**“§352-29 Termination of director’s right to supervise person.** (a) The

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 135

authority of the director to supervise the conduct of a person who has been committed to the director's care, unless such authority shall be sooner terminated pursuant to this chapter or chapter 571, shall cease:

- (1) At the time of sentencing for any subsequent offense for which the committed person has been waived pursuant to section 571-22 and has been convicted by a court of competent criminal jurisdiction; or
  - (2) At the expiration date of the order of commitment issued unless the director has, prior to such expiration date, sought and obtained from the court an extension of such order; or
  - (3) Whenever the director, prior to the termination otherwise of such order, determines that the purposes of such order have been achieved in the case of a person under age eighteen; provided that if the commitment order reserves the approval of the family court for any discharge before termination, the director shall obtain approval of the court for a discharge; or
  - (4) Whenever the director, prior to the termination otherwise of such order, determines that the purposes of such order have been achieved in the case of a person committed to a term extending beyond the person's eighteenth birthday and obtains court approval prior to discharge.
- (b) The director, in each case described in subsection (a)(2), (3) and (4) of this section, shall immediately notify the person, the court, the police department of the county where the committed person resided before commitment, and, if a minor, the person's parent or guardian of the termination of the director's supervision over such person, provided that in cases covered by subsection (a)(1), the sentencing court shall provide such notification including notice to the director."

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 10, 1981.)

## ACT 135

H.B. NO. 721

A Bill for an Act Relating to Pacific War Memorials.

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

SECTION 1. The purpose of this Act is to transfer the duties of the Pacific War Memorial Commission of Hawaii to the department of land and natural resources.

Currently, the Pacific War Memorial Commission of Hawaii is under the department of defense for administrative purposes only. The Commission was established to create and maintain projects for the purposes of memorials commemorating our war veterans and those who sacrificed their lives for our country.

The 1979 Legislature under section 52 of Act 214 requested the department of

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budget and finance to undertake a study on the Commission regarding its duties and responsibilities. The department transmitted its report through Governor's Message No. 11 this year and recommended abolishment of the Commission and transfer of its duties and responsibilities to the department of land and natural resources. The report found that the original purposes of establishing such war memorials had been completed. Presently, the Commission's duties are related to the maintenance of existing memorials and consultation with private, state, and federal organizations with similar objectives. It was decided that these functions could be accomplished by the department of land and natural resources without jeopardizing the State's objectives for the furtherance of the war memorial system.

SECTION 2. Chapter 6, Hawaii Revised Statutes, is repealed.

SECTION 3. Chapter 6E, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read:

#### **"PART . PACIFIC WAR MEMORIAL SYSTEM**

**§6E- Department of land and natural resources; powers.** The department may create and maintain a living war memorial commemorating the sacrifices of Hawaii's heroic dead of World War II; accept land or other property or assets transferred to it by the State or any county for the accomplishment of its objectives; adopt a seal; and adopt rules pursuant to chapter 91 for the purposes of this part.

The department may also promote and secure the cooperation of national agencies, such as the American Battle Monuments Commission, and other organizations, public or private, seeking to accomplish similar objectives.

In addition, the department may:

- (1) Solicit gifts and contributions and publicize the purposes for which such gifts and contributions are being solicited;
- (2) Advise federal and state agencies of the department's purposes and objectives, as well as private individuals and corporations in Hawaii and other States;
- (3) Accept all gifts and contributions from governmental agencies and private persons, except such gifts as may be conditioned upon some restriction of its authority or the purposes for which it is created;
- (4) Grant to the American Battle Monuments Commission all rights necessary, and not in conflict with this part, for the erection and maintenance of battle monuments;
- (5) Prepare plans and develop all lands which may be placed under its jurisdiction for war memorial purposes and in that connection cooperate with the director of transportation and such other government and private organizations as may be interested in or affected by the projects;
- (6) Enter into contracts and agreements with the government or private agencies for the attainment of its authorized purposes; and
- (7) Utilize such contributions of labor, materials, and property, including money, as may be allocated or otherwise made available to it by any person or instrumentality whatsoever, if in the judgment of the department the acceptance thereof will not limit the scope of the purposes of this part.

**§6E- Transfer of lands.** Any county or the State may transfer lands to the

department for the purposes of this part, which are declared public purposes, on any terms or conditions or tenure or otherwise as the county or the State may desire to impose, any other law restricting such transfer, or restricting the type, location or classification of lands which may be transferred, to the contrary notwithstanding. Lands under Executive Order No. 1534, dated November 19, 1952, are transferred to the department of land and natural resources; provided that the aforesaid land under Executive Order No. 1534, subject to current encumbrances and the agreement reached on August 3, 1961, between the Pacific War Memorial Commission of Hawaii and the Disabled American Veterans, shall be used for the purposes for which that land was set aside, a site for the creation and maintenance of a living war memorial as provided by Act 288, Session Laws Hawaii 1949, as amended by Joint Resolution 37, Session Laws of Hawaii 1951."

**SECTION 4.** Section 26-21, Hawaii Revised Statutes, is amended to read:

**"§26-21 Department of defense.** 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.

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.

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."

**SECTION 5.** All appropriations, records, equipment, machines, files, supplies, contracts, books, heretofore made, used, acquired, or held by the department of defense relating to the functions transferred to the department of land and natural resources shall be transferred with the functions to which they relate.

**SECTION 6.** The department of land and natural resources shall assume and exercise all of the rights, functions, powers, duties, and obligations incurred by the department of defense or the Pacific War Memorial Commission of Hawaii, or both, whether such powers, functions, duties, and obligations are mentioned in or granted by any law, contract, or other document. All references in such law, contract, or document to the department of defense or the Pacific War Memorial Commission of Hawaii, or both, in connection with the programs and organizational segments transferred by this Act shall apply to the department of land and natural resources as if the latter were named in such law, contract, or document in place of the former department.

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

SECTION 8. This Act, upon its approval, shall take effect on July 1, 1981.  
(Approved June 10, 1981.)

## ACT 136

H.B. NO. 781

A Bill for an Act Relating to the Department of Regulatory Agencies.

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

SECTION 1. Section 26-9, Hawaii Revised Statutes, is amended to read:

**"§26-9 Department of regulatory agencies.** (a) The department of regulatory agencies shall be headed by a single executive to be known as the director of regulatory agencies.

(b) The department shall protect the interests of consumers, depositors, and investors throughout the State. It shall set standards and enforce all laws, 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 examiners of abstract makers, board of accountants, board of barbers, board of cosmetology, boxing commission, board of chiropractic examiners, collection agencies advisory board, contractors license board, board of dental examiners, board of registration for professional engineers, architects, and surveyors, board of massage, board of medical examiners, board of examiners of 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, board of pharmacy, board of detectives and guards, real estate commission, and board of veterinary examiners are placed within the department of regulatory agencies 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 regulatory agencies, 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 regulatory agencies subject only to applicable personnel laws.

(f) The director of regulatory agencies 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 regulatory agencies. The hearings

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

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 may appoint a complaints officer not subject to chapters 76 and 77 who shall facilitate the investigation and hearing of complaints.

(h) The functions and authority heretofore 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 regulatory agencies established by this chapter. The director of regulatory agencies shall also be the insurance commissioner and commissioner of securities.

(i) 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 of regulatory agencies, the director shall have power to subpoena witnesses, examine them under oath, and require the production of books, papers, documents, or objects which he 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. This subsection is repealed effective July 1, 1983.

(j) 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 regulatory agencies. 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 regulatory agencies for administrative purposes from adopting, amending, or repealing rules, except as provided for in subsection (k).

(k) Any law to the contrary notwithstanding, the fees, assessed or charged by any board or commission placed within the department of regulatory agencies for administrative purposes may be established, pursuant to chapter 91, as separate application, examination, and license fees, and be increased or decreased by the director of regulatory agencies to maintain a reasonable relation between the revenue derived from the fee and the cost or value of services rendered."

SECTION 2. Section 2, Act 92, Session Laws of Hawaii 1980, is amended to read:

"SECTION 2. The director of regulatory agencies shall prepare and submit a bill to the legislature prior to the convening of the 1982 Regular Session conforming the provisions of Title 25, Hawaii Revised Statutes, and, if applicable, elsewhere in

the Hawaii Revised Statutes to the provisions of section 26-9(k), Hawaii Revised Statutes, relating to fees."

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

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

(Approved June 12, 1981.)

**ACT 137**

**H.B. NO. 795**

A Bill for an Act Relating to the Filing of Returns for Taxation Purposes.

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

SECTION 1. Section 238-5, Hawaii Revised Statutes, is amended to read:

**"§238-5 Returns.** On or before the last day of each calendar month, any person who has become liable for the payment of a tax under this chapter during the preceding calendar month in respect of any property or the use thereof, shall file a return with the assessor of the taxation district in which the property was held when the tax first became payable, or with the director of taxation at Honolulu, setting forth a description of the property and the character and quantity thereof in sufficient detail to identify the same or otherwise in such reasonable detail as the director by regulations shall require, and the purchase price or value thereof as the case may be. The return shall be accompanied by a remittance in full of the tax, computed at the rate specified in section 238-2 upon the price or value so returned. Any such tax remaining unpaid after the last day following the end of the calendar month during which the same first became payable shall become delinquent; provided[,] that a receipt from a seller required or authorized to collect the tax, given to a taxpayer in accordance with section 238-6, shall be sufficient to relieve the taxpayer from further liability for the tax to which the receipt may refer, or for the return thereof.

Notwithstanding the foregoing, a taxpayer may be eligible to file his return required under this section and make payments thereon on a quarterly basis during the calendar year, such 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, if he possesses a valid and current permit to file his general excise tax return and to make payments thereon on a quarterly basis issued by the director pursuant to section 237-30. A taxpayer may also be eligible to make monthly payments based on his estimated quarterly liability with a reconciliation return at the end of each quarter during the calendar year, as heretofore provided, if he possesses a valid and current permit to file quarterly reconciliation general excise tax returns and to make monthly payments, issued by the director pursuant to section 237-30.

On or before [April 20 in each year] the twentieth day of the fourth month following the close of the taxable year, every person who has become liable for the

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 138

payment of taxes both under this chapter and also under chapter 237 during the preceding calendar year (or during the preceding tax year if the person has established a tax year other than the calendar year), shall file a return summarizing his liability under this chapter for the taxable year, in such form as the director shall prescribe and shall file it with his annual return of general excise taxes."

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

SECTION 3. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1980.

(Approved June 12, 1981.)

## ACT 138

H.B. NO. 796

A Bill for an Act Relating to Taxation.

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

SECTION 1. Section 235-61, Hawaii Revised Statutes, is amended to read:

**“§235-61 Withholding of tax on wages.** (a) As used in this section:

- (1) “Wages” means wages, commissions, fees, salaries, bonuses, and every and all other kinds of remuneration for, or compensation attributable to, services performed by an employee for his employer, including the cash value of all remuneration paid in any medium other than cash and the cost-of-living allowances and other payments included in gross income by section 235-7(b), but excluding income excluded from gross income by section 235-7 or other provisions of this chapter;
- (2) “Employee” includes an officer or elected official, or any other employee;
- (3) “Employer” means (A) the person or government for whom an individual performs or performed any service, of whatever nature, as the employee of such person or government, and (B) the person having control of the payment of the wages if the “employer” as heretofore defined does not have control thereof, and (C) any person subject to the jurisdiction of the State and paying wages on behalf of an “employer” as heretofore defined if the employer is not subject to the jurisdiction of the State; provided that the term “employer” shall not include any government that is not subject to the laws of the State except as, and to the extent that, it consents to the application of sections 235-61 to 235-67 to it.

(b) Every employer, as defined herein, making payment of wages, as herein defined, to employees, shall deduct and withhold from such wages an amount of tax determined as provided in this section.

(c) For each withholding period (whether weekly, bi-weekly, monthly, or otherwise) the amount of tax to be withheld under this section shall be at a rate which, for the taxable year, will yield the tax imposed by section 235-51 upon each employee’s annual wage, as estimated from his current wage in any withholding period, but (for the purposes of this subsection) of the rates provided by section 235-51 the maximum to be taken into consideration shall be eight per cent. The tax for the taxable year shall be calculated upon the following assumptions:

- (1) That the employee's annual wage, as estimated from his current wage in the withholding period, will be his sole income for the taxable year;
- (2) That there will be no deductions therefrom in determining adjusted gross income;
- (3) That in determining taxable income there will be deductions in the amount of ten per cent of the estimated annual wage;
- (4) That in determining taxable income there also will be deducted the amount of exemptions and withholding allowances granted to the employee in the computation of taxable income, as shown by a certificate to be filed with the employer as provided by subsection (f); and
- (5) If it appears from the certificate filed pursuant to subsection (f) that the employee is, under section 235-93, entitled to make a joint return, that he and his spouse will so elect.

(d) Alternatively, at the election of the employer, he may deduct and withhold from each employee an amount of tax determined on the basis of tables to be prepared and furnished by the department of taxation, which amount of tax shall be substantially equivalent to the amount of tax provided by subsection (c) hereof.

(e) The department, by regulation, may require the deduction and withholding of tax from any remuneration or compensation paid for or attributable to services that are not subject to the general excise tax imposed by chapter 237, whether or not such withholding is provided for hereinabove. Every person so required to deduct and withhold tax, or from whom tax is required to be deducted and withheld, shall be subject to sections 235-61 to 235-67, and every person so required to deduct and withhold tax shall be deemed an employer for the purposes of this chapter.

The department, by regulation, may exempt any employer from the requirement of deduction and withholding of taxes, even though such requirement is imposed by this section, if and to the extent that the department finds such requirement unduly onerous or impracticable of enforcement.

(f) On or before the date of the commencement of employment with an employer, the employee shall furnish the employer with a signed certificate relating to the amount of exemptions which he claims, which shall in no event exceed the amount to which he is entitled on the basis of the existing facts, and also showing whether he is married and is, under section 235-93, entitled to make a joint return. The certificate shall be in such form and contain such information as may be prescribed by the department.

If, on any day during the calendar year, there is a change in the employee's marital status and he no longer is entitled to make a joint return, or the amount of exemptions to which the employee is entitled is less than the amount of exemptions claimed by the employee on the certificate then in effect with respect to him, the employee shall within ten days thereafter furnish the employer with a new certificate showing his present marital status, or relating to the amount of exemptions which the employee then claims, which shall in no event exceed the amount to which he is entitled on the basis of the existing facts. If, on any day during the calendar year, there is a change in the employee's marital status and though previously not entitled to make a joint return he now is so entitled, or the amount of exemptions to which he is entitled is greater than the amount of exemptions claimed, the employee may

furnish the employer with a new certificate showing his present marital status, or relating to the amount of exemptions which the employee then claims, which shall in no event exceed the amount to which he is entitled on the basis of the existing facts.

Such certificate shall take effect at the times set forth in the Internal Revenue Code.

(g) In determining the deduction allowed by subsection (c)(4) an employee shall be entitled to withholding allowances under this subsection with respect to a payment of wages equal to the number determined by dividing by \$1,000 the excess of the employee's estimated itemized deductions over an amount equal to ten per cent of the employee's estimated wages. For the purposes of this subsection a fractional number shall not be taken into account.

(1) As used in this subsection, unless the context otherwise requires:

(A) "Estimated itemized deductions" means the aggregate amount which the employee reasonably expects will be allowed as deductions under sections 235-2.3 and 235-7, other than the deductions referred to in Internal Revenue Code section 151 and those deductions required to be taken into account in determining adjusted gross income under Internal Revenue Code section 62 (with the exception of paragraph 13 thereof) for the estimation year. In no case shall such aggregate amount be greater than the sum of:

(i) The amount of such deductions (or the zero bracket amount (within the meaning of section 235-2.3)) reflected in the employee's net income tax return for the taxable year preceding the estimation year or (if such a return has not been filed for such preceding taxable year at the time the withholding exemption certificate is furnished the employer) the second taxable year preceding the estimation year, or

(ii) The ten per cent standard deduction reflected in the employee's net income tax return for the taxable year preceding the estimation year or (if such a return has not been filed for such preceding taxable year at the time the withholding exemption certificate is furnished the employer) the second taxable year preceding the estimation year, and the amount of the employee's determinable additional deductions for the estimation year.

(B) "Estimated wages" means the aggregate amount which the employee reasonably expects will constitute wages for the estimation year.

(C) "Determinable additional deductions" means those estimated itemized deductions which:

(i) Are in excess of the deductions referred to in subparagraph (A) (or the zero bracket amount) reflected on the employee's net income tax return for the taxable year preceding the estimation year; and

(ii) Are demonstrably attributable to an identifiable event during the estimation year or the preceding taxable year which can reasonably be expected to cause an increase in the amount of

- such deductions on the net income tax return for the estimation year.
- (D) "Estimation year", in the case of an employee who files the employee's return on the basis of a calendar year, means the calendar year in which the wages are paid; provided that in the case of an employee who files the employee's return on a basis other than the calendar year, the employee's estimation year, and the amounts deducted and withheld to be governed by such estimation year, shall be determined under rules prescribed by the director of taxation.
- (2) Under this subsection, the following special rules shall apply:
- (A) Married individuals. The number of withholding allowances to which a husband and wife are entitled under this subsection shall be determined on the basis of their combined wages and deductions. This subparagraph shall not apply to a husband and wife who filed separate returns for the taxable year preceding the estimation year and who reasonably expect to file separate returns for the estimation year.
- (B) Limitation. In the case of employees whose estimated wages are at levels at which the amounts deducted and withheld under this chapter generally are insufficient (taking into account a reasonable allowance for deductions and exceptions) to offset the liability for tax under this chapter with respect to the wages from which such amounts are deducted and withheld, the director may by rule reduce the withholding allowances to which such employees would, but for this subparagraph, be entitled under this subsection.
- (C) Treatment of allowances. For purposes of this chapter, any withholding allowance under this subsection shall be treated as if it were denominated a withholding exemption.
- (3) The director may prescribe tables by rule under chapter 91 pursuant to which employees shall determine the number of withholding allowances to which they are entitled under this subsection.
- (h) Any individual required to supply information to his employer under this section who wilfully supplies false or fraudulent information, or who wilfully fails to supply information under this section which would require an increase in the tax to be withheld, shall be fined not more than \$500, or imprisoned not more than six months, or both."

SECTION 2. Section 235-62, Hawaii Revised Statutes, is amended to read:

**"§235-62 Return and payment of withheld taxes.** Every employer required by this chapter to withhold taxes on wages paid in any month shall make return of such wages to the department of taxation on or before the fifteenth day of the calendar month following the month for which the taxes have been withheld. The return shall be in such form, including computer printouts and the like, and contain such information as may be prescribed by the director of taxation. The return shall be filed with the collector of the taxation district in which the employer has his principal place of business or with the director at Honolulu if the employer has no place of business in the State. Every return under this section shall be accompanied by a

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remission of the complete amount of tax withheld, as reported in the return; provided that the director may, if he believes such action necessary where collection of the tax may be in jeopardy, require any person required to make a return under this section to make such return and pay such tax at any time; provided further that the director may grant permission to employers, whose liability to pay over the taxes withheld as heretofore provided shall not exceed \$1,000 a year, to make returns and payments thereon on a quarterly basis during the calendar year, such returns and payments to be made on or before the fifteenth day of the calendar month after the close of each quarter, to wit on or before April 15, July 15, October 15, and January 15; and provided further that the director may grant permission to employers to make monthly payments based on an estimated quarterly liability, provided that the employer file a reconciliation return on or before the fifteenth day of the calendar month after the close of each quarter during the calendar year as heretofore provided. The director, for good cause, may extend the time for making returns and payments, but not beyond the fifteenth day of the second month next succeeding the regular due date thereof as provided herein. With respect to wages paid out of public moneys, the director in his discretion may prescribe special forms for, and different procedures and times for the filing of, such returns by employers paying such wages, or may, upon such conditions and subject to such rules as he may prescribe from time to time, waive the filing of any such returns."

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

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

(Approved June 12, 1981.)

## ACT 139

H.B. NO. 800

A Bill for an Act Relating to General Excise Tax.

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

SECTION 1. Section 237-30, Hawaii Revised Statutes, is amended to read:

**"§237-30 Monthly or quarterly return, computation of tax, payment.** The taxes levied hereunder shall be payable in monthly installments on or before the last day of the calendar month following the month in which they accrue. The taxpayer shall, on or before the last day of the calendar month[,] following the month in which the taxes accrue, make out and sign a return of the installment of tax for which he is liable for the preceding month and transmit the same, together with a remittance, in the form required by section 237-31, for the amount of the tax, to the office of the department of taxation in the appropriate district hereinafter designated.

Notwithstanding the foregoing, the director of taxation may, for good cause, permit a taxpayer to file his return required under this section and make payments

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

thereon 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 further that the director is satisfied that the taxpayer's total tax liability for the calendar year under this chapter will not exceed [\$500.] \$1,000. The director may also, for good cause, permit a taxpayer to make monthly payments based on his estimated quarterly liability, provided the taxpayer files a reconciliation return at the end of each quarter during the calendar year, as heretofore provided.

If a taxpayer filing his return on a quarterly basis, as herein provided, becomes delinquent in either the filing of his return or the payment of the taxes due thereon, or if the liability of a taxpayer, who possesses a permit to file his return and to make payments on a quarterly basis exceeds [\$500] \$1,000 in general excise taxes during the calendar year, or if the director determines that any such quarterly filing of return would unduly jeopardize the proper administration of this chapter, including the assessment or collection of the general excise tax, the director may, at any time, revoke a taxpayer's permit, in which case the taxpayer will then be required to file his return and make payments thereon as herein provided in the first paragraph of this section.

The director may adopt and promulgate rules and regulations to carry out the purposes of this section.

Section 232-2 does not apply to a monthly return."

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

SECTION 3. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1980.

(Approved June 12, 1981.)

ACT 140

H.B. NO. 823

A Bill for an Act Relating to the Department of Transportation.

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

SECTION 1. Section 26-19, Hawaii Revised Statutes, is amended to read:

**"§26-19 Department of transportation.** The department of transportation shall be headed by a single executive to be known as the director of transportation.

The department shall establish, maintain, and operate transportation facilities of the State, including highways, airports, harbors, and such other transportation facilities and activities as may be authorized by law.

The department shall develop and promote ridesharing programs which shall include but not be limited to, carpool and vanpool programs, and may assist organizations interested in promoting similar programs, and arrange for contracts with private organizations to manage and operate any such programs. Ridesharing programs include informal arrangements in which three or more persons ride

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together in a motor vehicle for four or more days a week to or from work or school.

The functions and authority heretofore exercised by the department of public works with respect to highways are transferred to the department of transportation established by this chapter.

On July 1, 1961, the Hawaii aeronautics commission, the board of harbor commissioners and the highway commission shall be abolished and their remaining functions, duties, and powers shall be transferred to the department of transportation.

Upon the abolishment of the Hawaii aeronautics commission, the board of harbor commissioners, and the highway commission, there shall be established within the department of transportation a commission to be known as the commission on transportation which shall sit in an advisory capacity to the director of transportation on matters within the jurisdiction of the department of transportation. The commission on transportation shall consist of [nine members,] one member from each senatorial district and three members at large.

**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 12, 1981.)

## ACT 141

H.B. NO. 920

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 87-4, Hawaii Revised Statutes, is amended to read:

**"87-4 State and county contributions to the fund.** (a) The State through the department of budget and finance and the several counties through their respective departments of finance shall pay to the fund a monthly contribution of \$14.14 for each of their respective employee-beneficiaries and \$45.08 for each respective employee-beneficiary with a dependent-beneficiary, such contributions to be used towards the payment of costs of hospital, medical, and surgical benefits of a health benefits plan; provided that the monthly contribution shall not exceed the actual cost of a health benefits plan. If both husband and wife are employee-beneficiaries, the total contribution by the State or the appropriate county shall not exceed the monthly contribution of a family plan for both of them.

(b) The State through the department of budget and finance and the several counties through their respective departments of finance shall pay to the fund a monthly contribution of \$4.18 for each child who has not attained the age of nineteen of all employee-beneficiaries who are enrolled for dental benefits. The contributions shall be used towards the payment of costs of dental benefits of a health benefits plan. Notwithstanding any provisions to the contrary, no part of the fund shall be used to finance the contributions except a rate credit or reimbursement or earnings or interest therefrom received by the fund or general revenues appropriated for that purpose.

(c) The State through the department of budget and finance and the several

counties through their respective departments of finance shall pay to the fund a monthly contribution of \$2.25 for each of their respective employees to be used towards the payment of group life insurance benefits for each employee.

(d) The several counties through their respective departments of finance shall annually reimburse the State no later than December 30 of each fiscal year for their respective pro rata share of the cost of administering the fund for the fiscal year for the benefit of their employee-beneficiaries and dependent-beneficiaries. Each county's pro rata share shall be determined by allocating the amount appropriated for administering the fund for the fiscal year, after excluding therefrom state and county contributions for hospital, medical and surgical benefits, dental benefits, and group life insurance benefits, in the same proportion as the aggregate annual amount of state and county contributions for such benefits as of October 31 of the preceding fiscal year. The amount of any excess or deficiency required to administer the fund shall be subtracted from or added to, as the case may be, the amount due from each county for the succeeding fiscal year.

(e) The State through the department of budget and finance and the several counties through their respective departments of finance shall advance the amount of their respective employee-beneficiaries contributions to the fund on or before the first day of each month.

(f) Contributions made by the State or the several counties shall not be considered as wages or salary of an employee-beneficiary, and no employee-beneficiary shall have any vested right in or be entitled to receive any part of any contribution made to the fund."

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

**SECTION 3.** This Act shall take effect on July 1, 1981.

(Approved June 12, 1981.)

## ACT 142

H.B. NO. 930

A Bill for an Act Relating to Professional Corporations.

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

**SECTION 1.** Section 416-142, Hawaii Revised Statutes, is amended to read as follows:

**"§416-142 Definitions.** As used in this part:

- (1) "Professional services" means any type of professional services which may be lawfully rendered only by persons licensed pursuant to chapters 442, 448, 453, 455, [458,] 459, 460, 461, 466, 471, and 605, or appointed pursuant to section 554-2.
- (2) "Professional corporation" means a corporation organized under this part which is engaged in rendering professional services in a single

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 143

profession, pursuant to a certificate of registration issued by the regulating board of the profession as herein provided, or pursuant to appointment made as provided in section 554-2.

- (3) "Licensed person" means any natural person who is licensed under chapter 442, 448, 453, 455, [458,] 459, 460, 461, 466, 471, or 605, to render the same professional services as are or will be rendered by the professional corporation of which he is, or intends to become, an officer, director, shareholder, or employee, or any natural person who is appointed or who is a stockholder of a professional corporation which is appointed under section 554-2.
- (4) "Disqualified person" means a licensed person who for any reason becomes legally disqualified either temporarily or permanently, to render the same professional services which the particular professional corporation of which he is an officer, director, shareholder, or employee is or was rendering.
- (5) "Regulating board" means the board which is charged with the licensing and regulation of the practice of the profession which the professional corporation is organized to render, or in the case of attorneys, the supreme court of the State, or in the case of trustees appointed under section 554-2, the court supervising the administration of the trust."

SECTION 2. Statutory material to be repealed is bracketed.

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

(Approved June 12, 1981.)

## ACT 143

H.B. NO. 1007

A Bill for an Act Relating to Claims for Legislative Relief.

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

SECTION 1. Section 37-77, Hawaii Revised Statutes, is amended to read as follows:

**"§37-77 Claims for legislative relief.** All claims for refunds, reimbursements, or other payments, authorization for which is sought from the legislature, shall, as a condition to their being considered by the legislature, be filed in quadruplicate with the director of finance at least thirty days prior to the convening of the legislature, together with quadruplicates of all data and documents in support thereof. In the absence of a showing of sufficient reason therefor, failure to comply with this paragraph shall be deemed sufficient cause for refusal of the legislature to consider the claims.

The director shall, immediately upon receipt thereof, refer any claim and data so received by him to the agency concerned, and the agency to which the reference is made shall immediately investigate the claim, secure in triplicate all available data and documents bearing thereon, and refer the same back to the director with its recommendations thereon. The director shall then forward the claim to the attorney general, who shall review the claim, make a recommendation as to the disposition of the claim and inform the director of the recommendation. The attorney general

shall, within five days after the opening of the session, transmit to the legislature the claims which are recommended for approval in an appropriate legislative bill form, together with all the data and documents substantiating each claim. All claims for which there is a recommendation of denial shall also be reported to the legislature."

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 12, 1981.)

ACT 144

H.B. NO. 1101

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. Chapter 87, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

"**§87- Rules.** The board may adopt rules pursuant to chapter 91 necessary for the purposes of this chapter."

SECTION 2. New material is underscored.\*

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

(Approved June 12, 1981.)

ACT 145

H.B. NO. 1770

A Bill for an Act Relating to Travel Agencies Recovery Fund Law.

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

SECTION 1. Chapter 468K, Hawaii Revised Statutes, is amended to read as follows:

**"CHAPTER 468K  
TRAVEL AGENCIES**

**§468K-1 Definitions.** As used in this chapter:

- (1) "Department" means the department of regulatory agencies.
- (2) "Director" means the director of regulatory agencies.
- (3) "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 ser-

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

vices and any person seeking to sell travel services. Travel agency does not include an air or ocean carrier.

- (4) "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 travel agency.

**§468K-2 Registration required.** Travel agencies and sales representatives shall register with the director prior to engaging in the business of selling travel services.

**§468K-3 Travel agency recovery fund; use of fund; fees.** The director shall establish and maintain a travel agency recovery fund from which any person aggrieved by an act, representation, transaction, or conduct of a registered travel agency or registered sales representative, that is in violation of this chapter, 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. 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.

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 a non-refundable fee of \$50 for deposit in the travel agency recovery fund.

Every sales representative shall pay at the time of original registration a non-refundable fee of \$25 for deposit in the travel agency recovery fund.

**§468K-4 Additional payments to fund.** If, on December 31 of any year, the balance remaining in the travel agency recovery fund is less than \$30,000, every travel agency and sales representative shall be assessed the appropriate fee for deposit in the travel agency recovery fund.

**§468K-5 Statute of limitations; recovery from fund.** (a) No action for a judgment 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 thereon. When any aggrieved person commences action for a judgment which may result in collection from the travel agency recovery fund, the aggrieved person shall notify the director in writing to this effect at the time of the commencement of such action. The director shall have the right to intervene in and defend any such action.

(b) When any aggrieved person 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 for such act, representation, transaction, or conduct which is in violation of this chapter or its adopted rules which occurred after January 1, 1981, the aggrieved person 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 director, 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.

(c) The court shall proceed upon such application in a summary manner, and, upon the hearing thereof, the aggrieved person shall be required to show:

- (1) He or she is not a spouse of the judgment debtor, or the personal representative of such 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 subsection (b) of this section, stating the amount thereof and the amount owing thereon 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.
- (5) That by such search 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.

(d) The court shall make an order directed to the director 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 aggrieved person by subsection (c) of this section and that the aggrieved person has fully pursued and exhausted all remedies available to the aggrieved person for recovering the amount awarded by the judgment of the court.

(e) Should the director 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 shall be automatically terminated upon the issuance of a court order authorizing payment from the travel agency recovery fund. No such travel agency or sales representative shall be eligible to re-register to do business 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. A discharge in bankruptcy shall not relieve a person from the penalties and disabilities provided in this subsection.

(f) 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 director shall, when sufficient money has been deposited in the travel agency recovery fund, satisfy such unpaid claims or portions thereof, in the order that such claims or portions thereof were originally filed.

**§468K-6 Management of fund.** The sums received by the director for deposit in the travel agency recovery fund shall be held by the director in trust for carrying out the purposes of the travel agency recovery fund. The director, as trustee of the recovery fund, may retain private legal counsel to represent the director in any action which may result in collection from the travel agency recovery fund. These funds may be invested and reinvested in the same manner as funds of the state employees'

retirement system, and the interest from these investments shall be deposited to the credit of the travel agency education fund, which is hereby created, and which shall be available to the director for educational purposes.

**§468K-7 False statement.** It shall constitute a misdemeanor for any person or his or her agent to file with the director any notice, statement, or other document required under this chapter, which is false or untrue or contains any material misstatement of fact.

**§468K-8 The director has standing in court.** When the director receives notice, as provided in section 468K-5, the director may enter an appearance, file an answer, appear at the court hearing, defend the action or take whatever other action it may deem appropriate. The director or the legal representative of the director shall be served with all pleadings in an action which may result in a recovery from the travel agency recovery fund.

Settlement of any claim against the travel agency recovery fund shall be made only by agreement of the director and attorney general that settlement is in the best interest of the travel agency recovery fund.

**§468K-9 Subrogation to rights of creditor.** When, upon the order of the court, the director has paid from the travel agency recovery fund any sum to the judgment creditor, the director shall be subrogated to all of the rights of the judgment creditor and the judgment creditor shall assign all his or her right, title, and interest in the judgment to the director and any amount and interest so recovered by the director on the judgment shall be deposited to the credit of the travel agency recovery fund.

**§468K-10 Waiver of rights.** The failure of an aggrieved person to comply with this chapter relating to the travel agency recovery fund shall constitute a waiver of any right hereunder.

**§468K-11 Maximum liability.** Notwithstanding any other provision, the liability of the travel agency recovery fund shall not exceed \$8,000 for any travel agency or sales representative.

**§468K-12 Disciplinary action against registrant.** 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 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 rules.

**§468K-13 Records and reports.** Every travel agency shall keep accurate and up-to-date records on all travel arrangements made for customers. The records required by law or rules shall be preserved by the agency for a period of at least two years.

**§468K-14 Restitution.** Any person who engages in an unlawful act or practice which violates any provision of this chapter or rules promulgated pursuant thereto may be ordered by court of proper jurisdiction to make restitution to all individual consumers injured by the act or practice.

**§468K-15 Penalties.** Any person who engages in an unlawful act or practice which violates any provision of this chapter or rules promulgated 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 2.** Statutory material to be repealed is bracketed. New material is underscored.\*

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

(Approved June 12, 1981.)

### ACT 146

H.B. NO. 1867

A Bill for an Act Relating to the Sale of Copies of Maps and Plans of Lands.

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

**SECTION 1.** Chapter 501, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

"**§501- Sale of land court maps.** The department of accounting and general services may sell land court maps, for a reasonable fee as established by rules adopted under chapter 91."

**SECTION 2.** Section 502-22, Hawaii Revised Statutes, is amended to read:

"**§502-22 Copies of plans furnished by registrar.** The registrar shall furnish, when so requested, copies of any map or plan filed in accordance with sections 502-17 to 502-21, duly certified by his seal of office, upon payment of the fee hereinafter mentioned. In addition, the registrar may authorize the department of accounting and general services to furnish, when so requested, copies of such maps or plans, subject to the payment of fees applicable to maps or plans furnished by the registrar."

**SECTION 3.** New statutory material is underscored.\*

**SECTION 4.** This Act shall take effect on July 1, 1981.

(Approved June 12, 1981.)

### ACT 147

H.B. NO. 1873

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

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

**SECTION 1.** Section 77-9, Hawaii Revised Statutes, is amended to read:

"**§77-9 Initial appointments; shortage categories and differentials.** (a) All initial appointments shall be made at the first step of the appropriate salary range. In the event that recruitment of an employee is not practicable at the first step, the director, after appropriate notice and advertising, may recruit at any step within the

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

appropriate salary range at which a suitable employee can be recruited.

(b) Whenever a labor shortage exists in a class or group of positions in a class, the director, with the prior approval of the chief executive, may declare it to be a shortage category and adjust the entry salary in accordance with subsection (c) to an amount which is fair and reasonable and at which employees can be recruited from the labor market. The director may review the impact of making such an adjustment on other classes or groups of positions in classes within the same series. If the director finds that it is necessary to adjust the entry salary of another class or group of positions in a class to preserve internal relationships within the series, the director may make such an adjustment in accordance with subsection (c); provided that the adjustment shall be not more than five per cent for each succeeding higher level class or group of positions in a class. The director shall review each shortage category periodically, but at least once each year, to determine whether the labor shortage exists to the same degree as previously determined and adjust the entry salaries accordingly. If the director determines that a shortage no longer exists, the director shall reestablish the first step of the appropriate salary ranges as the entry salaries.

(c) An adjustment to an entry salary under subsection (b) shall be made by adding to the first step of the appropriate salary range a temporary shortage differential, which shall not be considered an adjustment to base pay. The amount of the differential shall be the dollar difference between the adjusted entry salary and the first step of the appropriate salary range, which shall be recomputed whenever there is a change in the respective pay schedule.

(d) Whenever the entry salary is being adjusted for a class or group of positions in a class, incumbents thereof who are being paid less than the adjusted entry salary shall have their pay adjusted to an equivalent amount. The adjustment shall be made by adding to their respective steps, a temporary shortage differential, which is not to be considered as an adjustment to base pay. The amount of the differential shall be the dollar difference between the adjusted entry salary and their respective steps, which shall be recomputed whenever there is a change in the respective pay schedule.

(e) In the event that the entry salary for a class or group of positions in a class is subsequently lowered, incumbents thereof who are receiving a temporary shortage differential shall continue to receive so much of the differential as is necessary to maintain their then existing pay until the rates for their respective steps equal or exceed such amount. If employees move from their respective positions in which they were granted a temporary shortage differential, the differential shall terminate and their pay shall be adjusted without the differential.

(f) The director shall maintain a list of all recruitment above the first step and shortage category determinations under this section and the justifications therefor."

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 12, 1981.)

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 148

S.B. NO. 2099

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. Section 10-9, Hawaii Revised Statutes, is amended to read as follows:

**“§10-9 Compensation; expense.** Members of the board shall be allowed:

- (1) Compensation at the rate of \$50 a day for each day's actual attendance at meeting;
- (2) Transportation fares between islands and abroad; and
- (3) Personal expenses at the rates specified by section 78-15, while attending board meetings or while on official business as authorized by the chairperson, when such board meetings or official business shall require a member to leave the island upon which the member resides.

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 16, 1981.)

## ACT 149

H.B. NO. 20

A Bill for an Act Relating to the Hawaii Bank Act of 1931.

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

SECTION 1. Section 403-53, Hawaii Revised Statutes, is amended to read as follows:

**“§403-53 Branch banks.** No bank or any officer or director, agent, or employee thereof, shall open or maintain any branch in the State or receive deposits or pay checks other than at its principal place of business or its established branches or such subsidiary collection offices as the director of regulatory agencies may approve, except as hereinafter authorized; provided that this section shall not apply to branch banks existent on July 1, 1931, and authorized to do business in the State; and provided further that nothing in this section shall authorize any bank to change the location of any branch bank except as authorized by the procedure hereinafter outlined for opening of branch banks.

Except as provided in section 403-56, no bank shall be permitted to open or maintain in the district of Honolulu, in addition to the main office of the bank more than five branch banks through 1981, six branch banks through 1983, seven branch banks through 1985, and no limit on the number of branch banks effective January 1, 1986, (whether designated as branch banks or collection offices) within each of the zones described.

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

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Zone I: extending from western side of Nuuanu Avenue to the western limits of the district of Honolulu;

Zone II: extending from the eastern limits of Zone I to a line beginning at the sea and running along Kapahulu Avenue to the intersection of Kapahulu Avenue and Waialae Road, and thence following easterly on Waialae Road to St. Louis Drive, and thence along St. Louis Drive and Dole Street extension to the boundary between Manoa Valley and Palolo Valley, and thence along the boundary to the Koolau range;

Zone III: extending from the eastern limits of Zone II to the eastern limits of the district of Honolulu.

The branch banking limitations of this section shall not apply to electronic funds transfer devices.

A bank or a service corporation of a bank holding company which provides electronic funds transfer terminals and services to its customers, at premises separate from its main office or duly authorized branch or facility, shall make such equipment or services available for use by customers of any other bank authorized to do business in this State upon the request of that other bank to share its use and the agreement of that other bank to share pro rata all costs incurred in connection with the installation and operation of such electronic funds transfer equipment and terminals. Such terminals shall identify with equal prominence all of the banking institutions which use the terminals.

The bank examiner shall adopt rules pursuant to chapter 91 governing the placement of electronic funds transfer devices."

**SECTION 2.** New material is underscored.

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

(Approved June 16, 1981.)

**ACT 150**

H.B. NO. 33

A Bill for an Act Relating to Public Libraries.

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

**SECTION 1.** Section 26-12, Hawaii Revised Statutes, is amended to read as follows:

**"§26-12 Department of education.** The department of education shall be headed by an executive board to be known as the board of education.

Under policies established by the board, the superintendent shall administer programs of education and public instruction throughout the State, including education at the preschool, primary and secondary school levels, adult education, school library services, health education and instruction (not including dental health treatment transferred to the department of health), and such other programs as may be established by law. The state librarian, under policies established by the board of education, shall be responsible for the administration of programs relating to public library services and transcribing services for the blind.

The functions and authority heretofore exercised by the department of public instruction (except dental health treatment transferred to the department of health),

library of Hawaii, Hawaii county library, Maui county library, and the transcribing services program of the bureau of sight conservation and work with the blind, as heretofore constituted are transferred to the public library system established by this chapter.

The management contract between the board of supervisors of the county of Kauai and the Kauai public library association shall be terminated at the earliest time after November 25, 1959, permissible under the terms of the contract and the provisions of this paragraph shall constitute notice of termination, and the functions and authority heretofore exercised by the Kauai county library as heretofore constituted and the Kauai public library association over the public libraries in the county of Kauai shall thereupon be transferred to the public library system established by this chapter.

The management contracts between the trustees of the library of Hawaii and the Friends of the Library of Hawaii, and between the library of Hawaii and the Hilo library and reading room association, shall be terminated at the earliest time after November 25, 1959, permissible under the terms of the contracts, and the provisions of this paragraph shall constitute notice of termination.

Upon the termination of the contracts, the State or the counties shall not enter into any library management contracts with any private association; provided that in providing library services the board of education may enter into contracts approved by the governor for the use of lands, buildings, equipment, and facilities owned by any private association.

There shall be within the public library system a commission in each county to be known as the library advisory commission for the county which shall in each case sit in an advisory capacity to the board of education on matters relating to public library services in the respective county. Each commission shall consist of not less than seven and no more than eleven members."

SECTION 2. Section 93-1, Hawaii Revised Statutes, is amended to read as follows:

**"§93-1 Establishment of state publications distribution center.** There shall be established within the public library system under the direction of the state librarian a state publications distribution center for depositing and distributing government publications and for promoting an orderly depository library system for state and county publications."

SECTION 3. Sections 93-5, Hawaii Revised Statutes, is amended to read as follows:

**"§93-5 Rules.** The board of education may make such rules as are necessary to carry out the purposes of this part."

SECTION 4. Chapter 296, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§296- Public library system; board of education control.** The board of education, through the state librarian, shall have direct control of the public library system, but not including school libraries. The board may adopt rules under chapter 91 for the purpose of this section."

SECTION 5. Section 312-1, Hawaii Revised Statutes, is amended to read as follows:

**“§312-1 Duties of the board of education.** The board of education shall care for, manage, and control all property set apart, donated, loaned to, or in any manner acquired for the use of libraries; receive, care for, expend, and account for any money which may be received for the purpose of erecting buildings for libraries or for any other purposes of the libraries; collect, purchase, receive gifts of, and otherwise acquire all books and other publications proper for libraries, and arrange, classify, and catalogue the same; provide for their safekeeping; expend moneys appropriated by the legislature and otherwise acquired for the development, use, support, and maintenance of libraries; provide ways and means for placing libraries within reach of all residents throughout the State and particularly of all public and private school children; provide and maintain branch libraries, offices, or places for the distribution of books and periodicals throughout the State; make such contracts as may be necessary to carry into effect the general duties herein imposed; appoint such officers and employees as it deems necessary; and make rules for the management and use of libraries, and for the control of the property under its management.”

SECTION 6. Section 312-2, Hawaii Revised Statutes, is amended to read as follows:

**“§312-2 Powers of board; special fund.** The board of education may make such arrangements or contracts as are approved by the governor, with any county, city, association, society, person, or persons, for the purpose of benefiting the libraries and increasing their facilities and use; subject to section 26-12, enter into such arrangement or contract as is approved by the governor, with the Friends of the Library of Hawaii, for the purpose of obtaining the use of books and property and income of the Friends of the Library of Hawaii; cooperate by exchange and otherwise with libraries now existing or hereafter to be formed; receive, use, manage, or invest moneys or other property, real, personal, or mixed which may be given, bequeathed, devised, or in any manner received from sources other than the legislature or any federal appropriation for any or all purposes of the libraries; deposit with the director of finance in a special fund all moneys donated to the board for library services; unless otherwise provided for by the terms and conditions of the donation, convert, at such time as the board may at its sole discretion determine, any or all donations of property, real, personal, or mixed, into money to be deposited into the special fund; expend the moneys in the special fund in accordance with the terms and conditions of each donation for the purposes of the libraries. The board shall be the trustee of the special fund and all moneys therein shall be deemed to have been appropriated to the use and for the purposes of the board in providing library services. Nothing in this section shall be construed to limit the powers and duties of the board hereinbefore expressed, or to empower the board to obligate the State financially in any sum which shall not have been appropriated by the legislature for the use of the board.”

SECTION 7. Section 312-2.1, Hawaii Revised Statutes, is amended to read as follows:

**“§312-2.1 Appointment of state librarian; duties; salary.** The state librarian

shall be appointed by the board of education, shall be under the direction of the board, and shall be responsible for the operation, planning, programming, and budgeting of all community/school and public libraries within the State. Notwithstanding any other law to the contrary, the salary of the state librarian shall be set by the board of education and shall be the same as that of an assistant superintendent of education."

SECTION 8. Section 312-3, Hawaii Revised Statutes, is amended to read as follows:

**"§312-3 Exchange of librarians.** The board of education may contract for the exchange of librarians with librarians of any state, country, or territory in accordance with this section, except as otherwise provided in section 76-37. Local librarians so exchanged shall be paid their regular salaries out of the funds appropriated for personal services in the library budget for the library concerned. The qualifications of all librarians from any such state, country, or territory so exchanged shall be equal to those of the local librarians exchanged. In the selection of local librarians for exchange, preference shall be given to persons born in the State. The requirements of citizenship shall not apply to any librarian coming to the State from any foreign state, country, or territory under any such contract of exchange. All librarians so exchanged shall furnish their own transportation to and from the state, country, or territory with which exchanged.

No compensation shall be paid by the State to visiting exchange librarians; provided that in any case where the local exchanged librarian becomes incapacitated or, for any reason, leaves the exchanged position permanently, the library concerned may pay the visiting exchange librarian an amount not to exceed the salary rating of the local exchanged librarian, such an arrangement to continue until the end of the period of exchange or until such time as some satisfactory adjustment has been made."

SECTION 9. Section 312-3.5, Hawaii Revised Statutes, is amended to read as follows:

**"§312-3.5 Wilful detention of books and other library materials; penalty.** A person who wilfully and knowingly detains a book, newspaper, plate, picture, photograph, engraving, painting, drawing, map, magazine, document, letter, public record, microform, sound recording, audio visual materials in any format, magnetic or other tapes, artifacts, or other documentary (written or printed) materials belonging to any library or similar institution controlled by the State for seven days after the mailing date of a written notice forwarded to his last known address, from the librarian or designated representative, that such books or library materials are to be returned to the library or institution, shall be subject to a nominal charge established by the board of education.

A person detaining such books or library materials thirty days after the mailing of the written notice shall be subject to a charge commensurate with the replacement value of the books or library materials."

SECTION 10. Section 312-5, Hawaii Revised Statutes, is amended to read as follows:

**"§312-5 Annual report to the governor.** Annually during the month of July

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but as of June 30 preceding, the board of education shall report to the governor the moneys received from all sources and expended for all purposes during the preceding year, and any other matters pertaining to the libraries which it may deem important, or the governor may require."

**SECTION 11.** Statutory material to be repealed is bracketed. New material is underscored.\*

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

(Approved June 16, 1981.)

## ACT 151

H.B. NO. 128

A Bill for an Act Relating to Utilities.

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

**SECTION 1. Purpose; findings and determinations.** The purpose of this Act is to implement article VII, section 12 of the Constitution of the State of Hawaii as proposed by the Hawaii Constitutional Convention of 1978 and ratified by the voters on November 7, 1978, and pertaining to the authorization for the issuance of special purpose revenue bonds to assist utilities serving the general public. This Act establishes a means whereby facilities for the local furnishing of electric energy or gas can be financed through the issuance of special purpose revenue bonds by the State.

The legislature finds and declares that the health, safety, and general welfare of the people of the State require that every opportunity be taken to assist utilities serving the general public in providing electric energy or gas at the lowest possible cost; that due to the geographical location of the State, interconnection with national or regional electric grid systems or gas pipeline systems is impossible, the consequence of which increases local cost of energy; that efforts are being made at state and federal levels to accomplish lower cost of energy, including at the federal level the provisions of the United States Internal Revenue Code exempting from federal taxation the interest on bonds issued by public bodies for the provision of facilities for the local furnishing of electric energy or gas or for air or water pollution control; that the interest on borrowings necessary to provide such facilities is a significant factor in the cost of electric energy and gas and that the interest cost would be less if tax exempt bonds could be issued for the financing thereof; that the protection and promotion of the public health and the maintenance of a standard of living compatible with decency and health at the lowest practicable cost can be encouraged with the assistance of the State through the issuance of special purpose revenue bonds by the State to finance the cost of facilities for the local furnishing of electric energy or gas; and that the assistance of utilities serving the general public by issuance by the State of special purpose revenue bonds to finance the cost of facilities for the local furnishing of electric energy or gas is a valid public purpose and in the public interest.

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

SECTION 2. Chapter 39A, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**"PART . ASSISTING UTILITIES SERVING THE GENERAL PUBLIC IN PROVIDING ELECTRIC ENERGY OR GAS**

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

- (1) "Department" means the department of budget and finance.
- (2) "Energy project" means any facilities for each single project or multi-project program of a project party which is certified by the public utilities commission as being for the local furnishing of electric energy or gas; provided that any new generating unit for the production or generation of electric energy from fossil fuels shall not be considered an energy project for purposes of this part unless specifically authorized in any act providing for the authorization of the issuance of bonds pursuant to this part.
- (3) "Local furnishing of electric energy or gas" means providing property or land that is or will be:
  - (A) Depreciable property or land;
  - (B) Used to produce, collect, generate, transmit, store, distribute, or convey electric energy or gas, including without limitation, air or water pollution control facilities;
  - (C) Used in the trade or business of furnishing electric energy or gas; and
  - (D) Part of a system providing service to the general public of not more than two contiguous counties in the State.
- (4) "Project agreement" means any agreement entered into under this part by the department with the project party for the financing from the proceeds of special purpose revenue bonds of an energy project, including without limitation any loan agreement.
- (5) "Project party" means an electric or gas utility serving the general public and which is regulated by the public utilities commission under chapter 269.
- (6) "Special purpose revenue bonds" or "bonds" mean bonds, notes, or other evidences of indebtedness issued pursuant to this part.

**§39A- Department powers as to energy projects.** In addition to powers which it may now have, the department shall have all powers necessary or convenient to accomplish the purposes of this part. The powers of the department include, but are not limited to, the following:

- (1) Notwithstanding and without compliance with sections 103-7 and 103-22 but with the approval of the governor to enter into and carry out a project agreement, or an amendment or supplement to an existing project agreement, with a project party, and to enter into and carry out any agreement whereby the obligation of a project party under a project agreement will be unconditionally guaranteed by a person other than a project party;
- (2) To issue special purpose revenue bonds pursuant to and in accordance

- with this part;
- (3) To lend the proceeds of the special purpose revenue bonds issued for an energy project to the project party for use and application by the project party for the acquisition, purchase, construction, reconstruction, improvement, betterment, or extension of an energy project;
  - (4) As security for the payment of the principal of and interest on the special purpose revenue bonds issued for an energy project, to pledge, assign, hypothecate, or otherwise encumber all or any part of the revenues and receipts derived or to be derived by the department under the project agreement for the energy project for which such bonds are issued; to pledge and assign the interest and rights of the department under the project agreement or other agreement with respect to such project or such special purpose revenue bonds; and to pledge and assign any bond, debenture, note, or other evidence of indebtedness received by the department with respect to such energy project; or any combination of the foregoing;
  - (5) To extend or renew any project agreement or any other agreement related thereto; provided that any such renewal or extension shall be subject to the approval of the governor unless made in accordance with provisions for such extension or renewal contained in a project agreement or related agreement theretofore approved by the governor; and
  - (6) To do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in this part.

When the department finances an energy project by the issuance of special purpose revenue bonds as contemplated by this part, the State shall not exercise the power of eminent domain to acquire an energy project or any part thereof for lease or transfer to a project party, nor shall the State operate a project on behalf of a project party.

**§39A- Compliance with state and local law.** The financing of any energy project under this part shall not relieve any project party or other user of such energy project from the laws, ordinances, and rules and regulations of the State and county or any departments or boards thereof with respect to the construction, operation, and maintenance of energy projects, compliance with master plans or zoning laws or regulations, obtaining of building permits, compliance with building and health codes and other laws, ordinances, or rules and regulations of similar nature pertaining to the energy project, and such laws shall be applicable to such party or such other user to the same extent they would be if the costs of the energy project were directly financed by the project party.

**§39A- Conditions precedent to negotiating and entering into a project agreement.** The department prior to entering into negotiations with any project party shall require that the State shall be reimbursed for any and all costs and expenses (direct or indirect) incurred by it in implementing and administering this part as determined by the department even though a project agreement may not be entered into and may further require the deposit of moneys with the department as security for such reimbursement. Any amount of such deposit in excess of the amount required to reimburse the State shall be returned by the department to the project party which

has made such deposit. The State shall not be required to pay to the project party any interest or earnings on such deposit.

The department shall not enter into any project agreement with respect to any energy project unless the department shall first find and determine either that the project party is a responsible party, whether by reason of economic assets or experience in the type of enterprise to be undertaken through such project, or otherwise, or that the obligations of the project party under the project agreement will be unconditionally guaranteed by a person who is a responsible party, whether by reason of economic assets or experience in the type of enterprise to be undertaken through such energy project, or otherwise.

**§39A- Project agreement.** No special purpose revenue bonds shall be issued unless at the time of issuance the department shall have already entered into a project agreement with respect to the energy project for the financing of which such bonds are to be issued. Any project agreement entered into by the department shall contain provisions unconditionally obligating the project party:

- (1) To pay to the department during the period or term of the project agreement, exclusive of any renewal or extension thereof and whether or not the energy project is used or occupied by the project party, such sum or sums, at such time or times, and in such amount or amounts that will be at least sufficient:
  - (A) To pay the principal and interest on all special purpose revenue bonds issued to finance the energy project as and when the bonds become due, including any premium payable upon any required redemption of such bonds;
  - (B) To establish or maintain such reserve, if any, as may be required by the instrument authorizing or securing the special purpose revenue bonds;
  - (C) To pay all fees and expenses (including the fees and expenses of the paying agents and trustees) incurred in connection with such special purpose revenue bonds; and
  - (D) To pay the expenses (direct or indirect) incurred by the State in administering such bonds or in carrying out the project agreement, as determined by the department.
- (2) To operate, maintain, and repair the energy project as long as the same is used in the business of local furnishing of electric energy or gas, and to pay all costs of such operation, maintenance, and repair.

Moneys received by the department pursuant to paragraph (1)(D) shall not be, nor be deemed to be, revenues of the energy project and shall be paid into the general fund of the State.

**§39A- Issuance of special purpose revenue bonds to finance energy projects.** In addition to the other powers which it may otherwise have, the department may issue special purpose revenue bonds to finance, in whole or in part, the costs of an energy project. All bonds issued under this part are special purpose revenue bonds and the provisions of part III of chapter 39 shall not apply thereto. All special purpose revenue bonds issued pursuant to this part shall be issued in the name of the department and not in the name of the State.

The department in determining the cost of any energy project, may also include the following:

- (1) Financing charges, fees, and expenses of any trustee and paying agents for special purpose revenue bonds issued to pay the cost of such energy project;
- (2) Interest on such bonds and the expenses of the State in connection with such bonds and the energy project to be financed from the proceeds of such bonds accruing or incurred prior to and during the period of construction and for not exceeding six months thereafter;
- (3) Amounts necessary to establish or increase reserves for the special purpose revenue bonds;
- (4) The cost of plans, specifications, studies, surveys, and estimates of cost and of revenues;
- (5) Other expenses incidental to determining the feasibility or practicability of the energy project;
- (6) Administration expenses;
- (7) Interest cost incurred by the project party with respect to the energy project prior to the issuance of the special purpose revenue bonds; and
- (8) Such other costs, commissions, and expenses incidental to the construction, acquisition, reconstruction, renovation, rehabilitation, improvement, betterment, operation, or extension of the energy project, the financing thereof, placing of the energy project in operation, and the issuance of the special purpose revenue bonds, whether incurred prior to or after the issuance of such bonds.

The legislature finds and determines that the exercise of the powers vested in the department by this part constitutes assistance to utilities serving the general public and that the issuance of special purpose revenue bonds to finance facilities of, or for, or to loan the proceeds of such bonds to assist, project parties, is in the public interest.

**§39A- Authorization of special purpose revenue bonds.** (a) Special purpose revenue bonds for each single project or multi-project program for each type of utility serving the general public shall be authorized by a separate act of the legislature, by an affirmative vote of two-thirds of the members to which each house is entitled; provided that the legislature shall find that the issuance of such bonds is in the public interest. Special purpose revenue bonds issued pursuant to this part may be in one or more series for each energy project. The special purpose revenue bonds of each issue shall be dated, shall bear interest at such rate or rates, shall mature at such time or times not exceeding thirty years from their date or dates, shall have such rank or priority and may be made redeemable before maturity at the option of the department, at such price or prices and under such terms and conditions, all as may be determined by the department. The department shall determine the form of the special purpose revenue bonds, including any interest coupons to be attached thereto, and the manner of execution of the special purpose revenue bonds, and shall fix the denomination or denominations of the special purpose revenue bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. The special purpose revenue bonds may be issued in coupon or in registered form, or both, as the department may determine,

and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The department may sell special purpose revenue bonds in such manner, either at public or at private sale, and for such price as it may determine.

(b) Prior to the preparation of definitive special purpose revenue bonds, the department may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery.

(c) Should any bond issued under this part or any coupon appertaining thereto become mutilated or be lost, stolen, or destroyed, the department upon the cancellation of such mutilated bond or coupon, may cause a new bond or coupon of like date, number, and tenor to be executed and delivered in exchange and substitution for, in lieu of and in substitution for such lost, stolen, or destroyed bond or coupon. Such new bond or coupon shall not be executed or delivered until the holder of the mutilated, lost, stolen, or destroyed bond or coupon has (1) paid the reasonable expense and charges in connection therewith, and (2) in the case of a lost, stolen, or destroyed bond or coupon, has filed with the department or its fiduciary, evidence satisfactory to such department or its fiduciary that such bond or coupon was lost, stolen, or destroyed and that the holder was the owner thereof, and (3) has furnished indemnity satisfactory to the department.

(d) The department may provide that CUSIP identification numbers shall be imprinted on any such bonds. In the event such numbers are imprinted on any such bonds (1) no such 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 department or any officer or agent thereof, including any fiscal agent, paying agent, or registrar for such bonds, by reason of such numbers or any use made thereof, including any use thereof made by the department, any such officer, or any such agent, or by reason of any inaccuracy, error, or omission with respect thereto or in such use. The department may require that all costs of obtaining and imprinting such numbers shall be paid by the purchaser of such bonds. For the purposes of this subsection, the term "CUSIP identification numbers" means the numbering system adopted by the Committee for Uniform Security Identification Procedures formed by the Securities Industry Association.

**§39A- Special purpose revenue bond anticipation notes.** Whenever the department authorizes the issuance of special purpose revenue bonds under this part, special purpose revenue bond anticipation notes of the department may be issued in anticipation of the issuance of such bonds and of the receipt of the proceeds of sale thereof, for the purposes for which such bonds have been authorized. All special purpose revenue bond anticipation notes shall be authorized by the department, and the maximum principal amount of such notes shall not exceed the authorized principal amount of such bonds. The notes shall be payable solely from and secured solely by the proceeds of sale of the special purpose revenue bonds in anticipation of which the notes are issued and the revenues from which would be payable and by which would be secured such bonds; provided that to the extent that the principal of the notes shall be paid from moneys other than the proceeds of sale of such bonds, the maximum amount of bonds in anticipation of which the notes are issued that has

been authorized shall be reduced by the amount of notes paid in such manner. The authorization, issuance, and the details of such notes shall be governed by the provisions of this part with respect to special purpose revenue bonds insofar as the provisions may be applicable; provided that each note, together with all renewals and extensions thereof, or refundings thereof by other notes issued under this section, shall mature within five years from the date of the original note.

**§39A- Powers with respect to and security for special purpose revenue bonds.**  
In order to secure the payment of any of the special purpose revenue bonds issued pursuant to this part, and interest thereon, or in connection with such bonds, the department shall have the power as to such bonds:

- (1) To pledge all or any part of the revenues derived by the department from the project agreement to the punctual payment of special purpose revenue bonds issued for the energy project financed from proceeds thereof, and interest thereon, and to covenant against thereafter pledging any such revenues or receipts to any other bonds or any other obligations of the department for any other purpose, except as otherwise stated in the law providing for the issuance of additional special purpose revenue bonds to be equally and ratably secured by a lien upon such revenues.
- (2) To pledge and assign the interest and rights of the department under the project agreement and other agreements related thereto and the rights, duties, and obligations of the department thereunder, including the right to receive revenues thereunder.
- (3) To covenant as to the use and disposition of the proceeds from the sale of such bonds.
- (4) To covenant to set aside or pay over reserves and sinking funds for such bonds and as to the disposition thereof.
- (5) To covenant and prescribe as to what happenings or occurrences shall constitute "events of default" and the terms and conditions upon which any or all of such bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived.
- (6) To covenant as to the rights, liabilities, powers, and duties arising upon the breach by it of any covenant, conditions, or obligation.
- (7) To designate a national or state bank or trust company within or without the State, incorporated in the United States, to serve as trustee for the holders of the special purpose revenue bonds and to enter into a trust indenture or trust agreement or indenture of mortgage with such trustee. The trustee may be authorized by the department to receive and receipt for, hold, and administer the proceeds of the special purpose revenue bonds issued for the energy project and to apply the proceeds to the purposes for which such bonds are issued, or to receive and receipt for, hold, and administer the revenues derived by the department under the project agreement and to apply such revenues to the payment of the principal and interest on such bonds, or both, and any excess revenues to the payment of expenses incurred by the State in administering such bonds or in carrying out the project agreement. In the event that such 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 as may be necessary or convenient or desirable in order to secure such bonds. The department may pledge and assign to the trustee the interest of the department under the project agreement and other agreements related thereto and the rights, duties, and obligations of the department thereunder, including the right to receive revenues thereunder. The department may appoint the trustee to serve as fiscal agent for the payment of the principal and interest, and for the purchase, registration, transfer, exchange, and redemption of the special purpose revenue bonds, and may authorize and empower the trustee to perform such functions with respect to such payments, purchase, registration, transfer, exchange, and redemption, as the department may deem necessary, advisable, or expedient, including without limitation, the holding of the special purpose revenue bonds and coupons which have been paid and the supervision of the destruction thereof in accordance with law.

- (8) To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants and duties.
- (9) To make such covenants and do any and all acts and things as may be necessary or convenient or desirable in order to secure such bonds, notwithstanding that such covenants, acts, or things may not be enumerated herein; it being the purpose hereof to give the department power to do all things in the issuance of such bonds and for their security that may be consistent with the Constitution of the State of Hawaii.

**§39A- Security for special purpose revenue bonds.** Special purpose revenue bonds shall be payable solely from the revenues derived by the department from payments made to the department under the project agreement or other supplemental agreements entered into with respect to the energy project, and shall be secured solely by such revenues and by the pledges and assignments authorized by this part. All special purpose revenue bonds of the same issue, subject to the prior and superior rights of outstanding bonds, claims, obligations, or mechanics' and materialmen's liens, shall have a prior and paramount lien on the revenues derived from the project agreement with respect to the energy project for which such bonds have been issued, over and ahead of all special purpose revenue bonds of any issue payable from the revenues which may be subsequently issued and over and ahead of any claims or obligations of any nature against the revenues subsequently arising or subsequently incurred; provided that the department may reserve the right and privilege to subsequently issue additional series of special purpose revenues bonds, from time to time, payable from the revenues derived from such project agreement on a parity with the special purpose revenue bonds theretofore issued and the subsequently issued series of special purpose revenue bonds, may be secured, without priority by reason of date of sale, date of execution, or date of delivery, by a lien on the revenues in accordance with law, including this part.

Notwithstanding any other provision hereof, the property in the energy project and all interest of the project party in the energy project and the revenues of the project party therefrom may be subjected to the present and future lien of any mortgage of the project party securing the project party's bonds, and the rights of the

department and any trustee for the holders of the special purpose revenue bonds and the holders of the special purpose revenue bonds in the energy project and the revenues therefrom may be made subject to the prior lien of the project party's mortgage.

**§39A- Special purpose revenue bonds not a general obligation of the State.** No holder or holders of any special purpose revenue bonds issued under this part shall ever have the right to compel any exercise of taxing power of the State to pay such bonds or the interest thereon and no moneys other than the revenues pledged to such bonds shall be applied to the payment thereof. Each special purpose revenue bond issued under this part shall recite in substance that such bond, including interest thereon, is not a general obligation of the State and is payable solely from the revenues pledged to the payment thereof, and that such bond is not secured directly or indirectly by the full faith and credit or the general credit of the State or by any revenues or taxes of the State other than the revenues specifically pledged thereto.

**§39A- Validity of special purpose revenue bonds.** The special purpose revenue bonds bearing the signature or facsimile signature of officers in office on the date of the signing thereof shall be valid and sufficient for all purposes, notwithstanding that before the delivery thereof and payment therefor any or all the persons whose signatures appear thereon shall have ceased to be officers of the department. The special purpose 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.

**§39A- Use of revenues derived from project agreement.** The department shall have the right to appropriate, apply, or expend the revenues derived from the project agreement for an energy project for the following purposes:

- (1) To pay when due all special purpose revenue bonds and interest thereon, for the payment of which the revenues are or have been pledged, charged, or otherwise encumbered, including reserves therefor; and
- (2) To the extent not paid by the project party to provide for all expenses of administration, operation, and maintenance of the energy project, including reserves therefor.

Unless and until adequate provision has been made for the foregoing purposes, the department shall not transfer the revenues derived from the project agreement to the general fund of the State.

**§39A- Special purpose revenue bonds exempt from taxation.** Special purpose revenue bonds and the income therefrom issued pursuant to this part shall be exempt from all state and county taxation except inheritance, transfer, and estate taxes.

**§39A- Exemption from taxation of department property.** All revenues derived by the department from any energy project or under the project agreement pertaining thereto shall be exempt from all state and county taxation. Any right, title, and interest of the department in any energy project shall also be exempt from all state and county taxation. Except as otherwise provided by law, the interest of the project party or user of such project in an energy project or under the project agreement or related agreement shall not be exempt from taxation to a greater extent than

it would be if the costs of the energy project were directly financed by the project party or other user.

**§39A- Refunding special purpose revenue bonds.** The legislature, by act enacted by an affirmative vote of two-thirds of the members to which each house is entitled, may authorize the issuance of refunding special purpose revenue bonds for the purpose of refunding any special purpose revenue bonds then outstanding and issued under this part, whether or not such outstanding special purpose revenue bonds have matured or are then subject to redemption. The legislature may provide, by act enacted by an affirmative vote of two-thirds of the members to which each house is entitled, for the issuance of a single issue of special purpose revenue bonds for the combined purposes of (1) financing the cost of an energy project or improvement or expansion thereof, and (2) refunding special purpose revenue bonds which shall theretofore have been issued under this part and shall then be outstanding, whether or not such outstanding special purpose revenue bonds have matured or are then subject to redemption. Nothing in this section shall require or be deemed to require the department to elect to redeem or prepay special purpose revenue bonds being refunded, or to redeem or prepay special purpose 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 law authorizing the issuance thereof, or, in the event the department elects to redeem or prepay any such bonds, to redeem or prepay as of any particular date or dates. The issuance of such special purpose revenue bonds, the maturities and other details thereof, the rights and remedies of the holders thereof, and the rights, powers, privileges, duties, and obligations of the department with respect to the bonds, shall be governed by the foregoing provisions of this part insofar as the provisions may be applicable.

**§39A- Status of special purpose revenue bonds under Uniform Commercial Code.** Notwithstanding any of the provisions of this part or any recitals in any special purpose revenue bonds issued under this part, all such special purpose revenue bonds shall be deemed to be investment securities under the Uniform Commercial Code, chapter 490, subject only to the provisions of the special purpose revenue bonds pertaining to registration.

**§39A- Treatment of special purpose revenue bonds in regulatory proceedings.**  
(a) In the setting of rates to be paid by the consumers of utility services, the public utilities commission shall provide such consumers the maximum benefits derived by the utility from the use of such bonds.

(b) For the purpose of public disclosure, the public utilities commission, in every rate proceeding involving a public utility which has utilized special purpose revenue bonds, shall make estimates of (A) the probable amounts which would have been incurred by the utility as capital costs if financing by means other than special purpose bonds were utilized, (B) the amount the utility pays for such bonds, including the principal and sinking fund requirements, the interest, and other expenses appropriately attributable to special purpose revenue bond financing, and (C) the difference between (A) and (B), or the estimated savings realized by the consumers of the utility services.

**§39A- Special purpose revenue bonds as legal investments and lawful**

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**security.** The special purpose revenue bonds issued pursuant to this part shall be and are declared to be legal and authorized investments for banks, savings banks, trust companies, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for all public funds of the State or other political corporations or subdivisions of the State. Such special purpose revenue bonds shall be eligible to secure the deposit of any and all public funds of the State and any and all public funds of counties or other political corporations or subdivisions of the State, and such bonds shall be lawful and sufficient security for such deposits to the extent of their value when accompanied by all unmatured coupons appertaining thereto.

**§39A- Construction of this part.** The powers conferred by this part shall be in addition and supplemental to the powers conferred by any other law. Insofar as the provisions of this part are inconsistent with the provisions of any other law, this part shall be controlling.

**§39A- Expiration.** No new special purpose revenue bond shall be issued under this part after June 30, 1984."

**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 upon its approval.

(Approved June 16, 1981.)

## ACT 152

H.B. NO. 461

A Bill for an Act Relating to Intoxicating Liquors.

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

**SECTION 1.** Chapter 291, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designated and to read as follows:

**“§291- Consuming or possessing intoxicating liquor while operating a motor vehicle.** (a) No person shall consume any intoxicating liquor while operating a motor vehicle upon any public street, road, or highway.

(b) No person shall possess, while operating a motor vehicle upon any public street, road, or highway, any bottle, can, or other receptacle containing any intoxicating liquor which has been opened, or a seal broken, or the contents of which have been partially removed.

(c) As used in this section, “intoxicating liquor” means the same as the term is defined in section 281-1.

(d) This section shall not apply to the living quarters of a trailer or camper.

(e) Any person violating this section shall be guilty of a misdemeanor.

**§291- Consuming or possessing intoxicating liquor while a passenger in a motor vehicle.** (a) No person shall consume any intoxicating liquor while a passenger in any motor vehicle upon any public street, road, or highway.

(b) No person shall possess, while a passenger in a motor vehicle upon any

public street, road, or highway, any bottle, can, or other receptacle containing any intoxicating liquor which has been opened, or a seal broken, or the contents of which have been partially removed.

(c) As used in this section, "intoxicating liquor" means the same as the term is defined in section 281-1.

(d) This section shall not apply to the living quarters of a trailer or camper.

(e) Any person violating this section shall be guilty of a petty misdemeanor.

**§291- Storage of opened container containing intoxicating liquor.** (a) No person shall keep in a motor vehicle, when such vehicle is upon any public street, road, or highway, any bottle, can, or other receptacle containing any intoxicating liquor which has been opened, or a seal broken, or the contents of which have been partially removed or fully removed, unless such container is kept in the trunk of the vehicle, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the vehicle is not equipped with a trunk. A utility or glove compartment shall be deemed to be within the area occupied by the driver and passengers.

(b) As used in this section, "intoxicating liquor" means the same as the term is defined in section 281-1.

(c) This section shall not apply to a recreational or other vehicle not having a separate trunk compartment, or to the living quarters of a trailer or camper.

(d) Any person violating this section shall be guilty of a violation."

## SECTION 2. New statutory material is underscored.\*

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

(Approved June 16, 1981.)

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 (1) to read as follows:

"(1) Open-end loan. An industrial loan company shall also have power to make open-end loans subject to the following requirements:

- (1) A licensee may not contract for and receive interest on an open-end loan in excess of that set forth in subsection (j).
- (2) A licensee shall not compound interest by adding any unpaid interest authorized by this subsection to the unpaid principal balance of the borrower's open-end loan account; provided that the unpaid principal balance may include the charges (other than interest) authorized by subsection (h).
- (3) Interest authorized by this subsection shall be deemed not to exceed the

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

maximum interest permitted by this section if such interest is computed for each billing cycle at a monthly rate not to exceed that permitted in subsection (j) by any of the following methods:

- (A) By converting the monthly rate to a daily rate and multiplying such daily rate by each daily unpaid principal balance of the open-end loan account in the billing cycle, and then adding the products of all such multiplications (in which case the daily rate is determined by multiplying the authorized monthly rate by 12 and dividing by 365); or
  - (B) By multiplying the monthly rate by the average daily unpaid principal balance of the open-end loan account in the billing cycle (in which case the average daily unpaid principal balance is the sum of the amount unpaid each day during the cycle divided by the number of days in the cycle); or
  - (C) By converting the monthly rate to a daily rate and multiplying such daily rate by the average daily unpaid principal balance of the open-end loan account in the billing cycle, and then multiplying the product so obtained by the number of days in the billing cycle (in which case the daily rate is determined by multiplying the authorized monthly rate by 12 and dividing by 365, and the average daily unpaid principal balance is the sum of the amounts unpaid for all days during the cycle divided by the number of days in the cycle); or
  - (D) By converting the monthly rate to a daily rate by the method set forth in subparagraph (A) and multiplying such daily rate times the sum of all the daily unpaid principal balances of the open-end loan account during the billing cycle.
- (4) For all of the above methods of computation, the unpaid principal balance of any day shall be determined by adding to any balance unpaid as of the beginning of that day all advances and other permissible amounts (other than interest) charged to the borrower and deducting all payments and other credits made or received that day.
  - (5) The borrower may pay all or any part of the unpaid balance in the borrower's open-end loan account, or the borrower may pay the unpaid balance in periodic installments, subject to minimum payment requirements, date of maturity and other conditions as determined by the licensee and set forth in the open-end loan agreement.
  - (6) A licensee may contract for and receive the fees, costs, and expenses permitted under subsection (h).
  - (7) If credit life or disability insurance is provided, the additional charge for credit life insurance or credit disability insurance shall be calculated in each billing cycle by applying the current monthly premium rate for such insurance as such rate may be approved by the insurance commissioner pursuant to chapter 435, to the entire outstanding balances in the borrower's open-end loan account, or so much thereof as the insurance covers using any of the methods specified in this subsection for the calculation of loan interest. A licensee shall not be responsible for advancing premiums for credit life or disability insurance on a borrower who is delin-

quent in the making of the required minimum payments on the loan if one or more of such payments is past due for a period of ninety days or more; provided that the licensee shall advance to the insurer the amounts required to keep such insurance, if provided, in force during such ninety-day period, which amounts may be debited to the borrower's open-end loan account.

- (8) A licensee, until the open-end loan account is terminated, may retain any security interest in real or personal property given to secure the open-end loan account. Upon such termination the licensee shall, within ten business days following receipt of written demand by the borrower, release the mortgage, security interest, pledge, or other security for the open-end loan. For the purposes of this paragraph, termination of the open-end loan account means the cancellation, rescission, or other cessation of the open-end loan account by mutual agreement where the borrower has paid all amounts owed on the open-end loan account and the borrower has complied with all of the terms of the open-end loan agreement. Nothing in this paragraph shall preclude any licensee from exercising any other rights the licensee has to or in the security for open-end loans in the event of the borrower's default.
- (9) If the open-end loan agreement is a retail installment contract, the licensee shall comply with the requirements of chapter 476."

**SECTION 2.** Statutory material to be repealed is bracketed.\*

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

(Approved June 16, 1981.)

## ACT 154

H.B. NO. 514

A Bill for an Act Relating to the Landlord-Tenant Code.

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

**SECTION 1.** Section 521-56, Hawaii Revised Statutes, is amended to read as follows:

**"§521-56 Disposition of tenant's abandoned possessions.** (a) When the tenant, within the meaning of section 521-70(d) or section 521-44(d), has wrongfully quit the premises, or when the tenant has quit the premises pursuant to a notice to quit or upon the natural expiration of the term, and has abandoned personality which the landlord, in good faith, determines to be of value, in or around the premises, the landlord may sell such personality, in a commercially reasonable manner, store such personality at the tenant's expense, or donate such personality to a charitable organization. Before selling or donating such personality, the landlord shall make reasonable efforts to apprise the tenant of the identity and location of, and the landlord's intent to sell or donate such personality by mailing notice to the tenant's for-

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

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warding address, or to an address designated by the tenant for the purpose of notification or if neither of these is available, to the tenant's previous known address. Following such notice, the landlord may sell the personality after advertising the sale in a daily paper of general circulation within the circuit in which the premises is located for at least three consecutive days, or the landlord may donate the personality to a charitable organization; provided that such sale or donation shall not take place until fifteen days after notice is mailed, after which the tenant is deemed to have received notice.

(b) The proceeds of the sale of personality under subsection (a) shall, after deduction of accrued rent and costs of storage and sale, including the cost of advertising, be held in trust for the tenant for thirty days, after which time the proceeds shall be forfeited to the landlord.

(c) When the tenant has quit the premises any personality in or around the premises left unsold after conformance to subsection (a) or otherwise left abandoned by the tenant and determined by the landlord to be of no value may be disposed of at the landlord's discretion without liability to the landlord."

**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 16, 1981.)

## ACT 155

H.B. NO. 579

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-89, Hawaii Revised Statutes, is amended to read as follows:

"[[ ]§514A-89[ ]] **Certain work prohibited.** No apartment owner shall do any work which could jeopardize the soundness or safety of the property, reduce the value thereof, or impair any easement or hereditament, nor may any apartment owner add any material structure or excavate any additional basement or cellar, without in every such case the unanimous consent of all the other apartment owners being first obtained; provided that the installation of solar energy devices as defined by section 468B-1, or additions to or alterations of an apartment made within such apartment or within a limited common element appurtenant to and for the exclusive use of the apartment, shall require approval only by the board of directors of the association of apartment owners and such percentage, number, or group of apartment owners as may be required by the declaration or bylaws."

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

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

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

(Approved June 16, 1981.)

## ACT 156

H.B. NO. 597

A Bill for an Act Relating to Offenses Against Public Administration.

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

**SECTION 1.** Chapter 710, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**“§710- Retaliating against a witness.** (1) A person commits the offense of retaliating against a witness if he uses force upon or threatens a witness or another person or damages the property of a witness or another person because of the attendance of the witness, or any testimony given, or any record, document, or other object produced, by the witness in an official proceeding.

(2) “Threaten” as used in this section means any threat proscribed by sections 707-764(1) and 707-764(2).

(3) Retaliating against a witness is a class C felony.

**§710- Retaliating against a juror.** (1) A person commits the offense of retaliating against a juror if he uses force upon or threatens a juror or another person because of the vote, opinion, decision, or other action of the juror in an official proceeding.

(2) “Threaten” as used in this section means any threat proscribed in sections 707-764(1) and 707-764(2).

(3) Retaliating against a juror is a class C felony.”

**SECTION 2.** New statutory material is underscored.\*

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

(Approved June 16, 1981.)

## ACT 157

H.B. NO. 695

A Bill for an Act Relating to Payments for Sick Leave.

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

**SECTION 1.** Chapter 79, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**“§79- Payments for sick leave.** (a) Payments for sick leave to all officers and employees of the State or of the political subdivisions of the State shall be made only on account of sickness.

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

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(b) Payments for sick leave as provided in subsection (a) may be paid from and charged to any appropriation that is enacted and made available for expenditure pursuant to law, other than appropriations designated for purposes that specifically exclude payments for sick leave.

(c) Payments for sick leave as provided in this section shall be paid in such manner and are subject to such limitation in amount as may be prescribed by law and by rules adopted under chapter 91."

### SECTION 2. New statutory material is underscored.\*

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

(Approved June 16, 1981.)

## ACT 158

H.B. NO. 729

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

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

SECTION 1. Section 213, Hawaiian Homes Commission Act, 1920, is amended by amending subsection (a) to read:

"(a) There are established in the treasury of the State seven revolving funds, to be known respectively as the Hawaiian home loan fund, the additional receipts loan fund, the Hawaiian home general loan fund, the Hawaiian home replacement loan fund, the Hawaiian home repair loan fund, the Hawaiian home farm loan fund, and the Hawaiian home operating fund.

(1) Hawaiian home loan fund. Thirty per cent of the state receipts derived from the leasing of cultivated sugarcane lands under any other provision of law or from water licenses shall be deposited into this fund. The aggregate amount of this fund including:

(A) The outstanding principal of all loans, advances, and transfers which have been made to other funds for which this fund has not been or need not be reimbursed; and

(B) The installments of principal paid by the lessees upon loans made to them from this fund, or payments representing reimbursements, on account of advances, but not including interest on such loans or advances,

shall not exceed \$5,000,000. The moneys in this fund shall be available for the purposes enumerated in section 214 of this Act.

That portion of the thirty per cent of the state receipts derived from the leasing of cultivated sugarcane lands under any other provision of law or from water licenses, in excess of the present ceiling in the Hawaiian home loan fund of \$5,000,000, which amount is called "additional receipts," shall be transferred to the Hawaiian home development fund, to

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

the additional receipts loan fund, and the Hawaiian home education fund as follows: fifteen per cent to the additional receipts loan fund; thirteen per cent to the Hawaiian home development fund, and seventy-two per cent to the Hawaiian home education fund; provided that until June 30, 1979, the aggregate amount so transferred shall not exceed the maximum amount of \$5,000,000, which maximum amount shall be increased to \$5,000,000 from and after July 1, 1979.

- (2) Additional receipts loan fund. Moneys transferred to this fund, installments of principal paid by the lessees upon loans made to them from this fund, or as payment representing reimbursement on account of advances, but not including interest on such loans or advances, shall be used for the purposes enumerated in section 214 of this Act.
- (3) Hawaiian home general loan fund. Moneys appropriated by the legislature for the construction of homes but not otherwise set aside for a particular fund, excluding moneys appropriated for construction of replacement homes; moneys transferred from the Hawaiian loan interest fund; and installments of principal paid by the lessees upon loans made to them from this fund, or as payments representing reimbursements on account of advances, but not including interest on such loans or advances; shall be deposited to this fund. The moneys in the fund shall be used for purposes enumerated in section 214 of this Act.
- (4) Hawaiian home replacement loan fund. The moneys in this fund shall be used to make loans to lessees to construct replacement homes upon their [residence] lots. Moneys appropriated by the legislature for replacement home construction loans; moneys transferred from the Hawaiian loan interest fund; installments of principal paid by the lessees upon loans made to them from this fund; and moneys transferred from other funds or accounts by legislative authorization shall be deposited into this fund.
- (5) Hawaiian home repair loan fund. Moneys appropriated to this fund by the legislature; moneys transferred from the Hawaiian loan interest fund; and installments of principal paid by the lessees upon loans made to them from this fund shall be deposited to this fund. The moneys in this fund shall be used to make loans in amounts not in excess of \$10,000 to lessees for repairs to their existing homes and for additions to such homes.
- (6) Hawaiian home farm loan fund. Moneys appropriated to this fund by the legislature; moneys transferred from the Hawaiian loan interest fund; and installments of principal paid by the lessees upon loans made to them from this fund shall be deposited to this fund. The moneys in this fund shall be used to make loans not in excess of \$35,000 to lessees of agricultural tracts leased under section 207 of this Act.
- (7) Hawaiian home operating fund. The interest transferred from the Hawaiian home loan fund, all fees received by the department from any other source, and moneys transferred from the Hawaiian loan interest fund, except moneys received by the Hawaiian home administration account shall be directly deposited into the Hawaiian home operating fund. The moneys in this fund shall be available:
  - (A) For construction and reconstruction of revenue-producing

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- improvements intended to principally serve occupants of Hawaiian home lands, including acquisition or lease therefor of real property and interests therein, such as water rights or other interests;
- (B) For payment into the treasury of the State of such amounts as are necessary to meet the interest and principal charges for state bonds issued for such revenue-producing improvements;
  - (C) For operation and maintenance of such improvements constructed from such funds or other funds;
  - (D) For the purchase of water or other utilities, goods, commodities, supplies, or equipment needed for services, or to be resold, rented, or furnished on a charge basis to occupants of Hawaiian home lands; and
  - (E) For appraisals, studies, consultants (architects, engineers), or any other staff services including those in section 202(b) required to implement, develop, and operate these projects. The moneys in this fund may be supplemented by other funds available for, or appropriated by the legislature for, the same purposes. In addition to such moneys, this fund, with the approval of the governor, may be supplemented by transfers, made on a loan basis from the Hawaiian home loan fund for a period not exceeding ten years; provided that the aggregated amount of such transfers outstanding at any one time shall not exceed \$500,000."

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 16, 1981.)

## ACT 159

H.B. NO. 808

A Bill for an Act Relating to Taxes on Liquid Fuel Sold or Used for Operating Motor Vehicles.

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

SECTION 1. Section 237-31, Hawaii Revised Statutes, is amended to read:

**"§237-31 Remittances.** All remittances of taxes imposed by this chapter shall be made by money, bank draft, check, cashier's check, money order, or certificate of deposit to the office of the department of taxation to which the return was transmitted. The department shall issue its receipts therefor to the taxpayer and shall pay the moneys into the state treasury as a state realization, to be kept and accounted for as provided by law; provided that from July 1, 1981 to June 30, 1984 all taxes derived from the sale of liquid fuel under section 237-16, sold or used for operating motor vehicles upon the public highways of the State, shall be deposited into the state treasury to the credit of the state highway fund.

The director of taxation with the approval of the governor shall establish by July 1 of 1981, 1982, and 1983 a formula that will equitably establish the amount of

taxes collected under section 237-16 in each fiscal year that are derived from the sale of liquid fuel sold or used for operating motor vehicles upon the public highways of the State which are to be deposited into the state treasury to the credit of the state highway fund."

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 16, 1981.)

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H.B. NO. 822

A Bill for an Act Relating to Notice of Breach or Default of Agreements for Use of State Land.

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

SECTION 1. Section 171-20, Hawaii Revised Statutes, is amended to read:

**“§171-20 Notice of breach or default.** Except as otherwise specifically provided in this chapter, in the event of a breach or default of any term, covenant, restriction, or condition of any lease, patent, license, agreement, or other instrument heretofore or hereafter issued under this chapter, the board of land and natural resources shall deliver a written notice of the breach or default by personal service or by registered or certified mail to the party in default and to each holder of record having any security interest in the land covered by or subject to the lease, patent, license, agreement, or other instrument, making demand upon the party to cure or remedy the breach or default within sixty days from the date of receipt of the notice; provided that where the breach involves a failure to make timely rental payments pursuant to the lease, patent, license, agreement, or other instrument heretofore or hereafter issued under this chapter, the written notice shall include a demand upon the party to cure the breach within less than sixty days, but not less than five business days, after receipt of the notice. Upon failure of the party to cure or remedy the breach of† default within the time period provided herein or within such additional period as the board may allow for good cause, the board may, subject to section 171-21 exercise such rights as it may have at law or as set forth in the lease, patent, license, agreement, or other instrument.”

SECTION 2. Section 171-21, Hawaii Revised Statutes, is amended to read:

**“§171-21 Rights of holder of security interest.** Whenever any notice of breach or default is given to any party under section 171-20, or under the terms of any lease, patent, license, agreement, or other instrument heretofore issued or hereafter to be issued under this chapter, a copy of the notice shall be delivered by the board of land and natural resources to all holders of record of any security interest in the land or

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

† Probably should read “or”.

interest covered by the lease, patent, license, agreement, or other instrument whose security interest has been recorded with the board. Should the board seek to forfeit the privilege, interest, or estate created by the lease, license, agreement, patent, or other instrument, each holder may, at its option, cure or remedy the breach or default, if the same can be cured or remedied, by the payment of money or, if such is not the case, by performing or undertake in writing to perform all the terms, covenants, restrictions, or conditions of any lease, patent, license, agreement, or other instrument capable of performance by the holder, as determined by the board, within the time period provided in section 171-20 or within such additional period as the board may allow for good cause and add the cost thereof to the mortgage debt and the lien of the mortgage. Upon failure of the holder to exercise its option, the board may:

- (1) Pay to the holder from any monies at its disposal, including the special land and development fund, which is made available for that purpose, the amount of the mortgage debt, together with interest and penalties, and secure an assignment of the debt and mortgage from the holder, or if ownership of the interest or estate shall then have vested in the holder by way of foreclosure or action in lieu thereof the board shall be entitled to a conveyance of the interest or estate upon payment to the holder of the amount of the mortgage debt, including interest and penalties, and all reasonable expenses incurred by the holder in connection with the foreclosure and preservation of its security interest, less appropriate credits, including income received from the privilege, interest, or estate subsequent to the foreclosure; or
- (2) Terminate the outstanding privilege, interest, or estate subject to the lien of the mortgage, without prejudice to any other right or remedy for arrears of rent or for any preceding or other breach or default, and thereupon use its best efforts to dispose of the land affected thereby to a qualified and responsible person who will assume the obligation of the mortgage and the debt thereby secured; provided, that a reasonable delay by the board in instituting or prosecuting any right or remedy it may have hereunder shall not operate as a waiver of the right or to deprive it of the remedy when it may still hope otherwise to resolve the problems created by the breach or default involved.

Section 171-19 to the contrary notwithstanding, the proceeds of any disposition effected hereunder shall be applied, first, to reimburse the board for costs and expenses in connection with the disposition, second, to discharge in full any unpaid purchase price or other indebtedness owing the State in connection with the privilege, interest, or estate terminated as aforesaid, and the balance, if any, shall be paid to the owner of the privilege, interest, or estate. Nothing herein contained shall be construed in a manner as to infringe upon or prejudice in any way the rights of a holder of record having a security interest which shall have vested prior to the effective date hereof, and to the extent that this section and section 171-98 shall or may conflict and adversely affect such interests, the same shall be of no force and effect."

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

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

(Approved June 16, 1981.)

### ACT 161

H.B. NO. 867

A Bill for an Act Relating to Investigators in the Department of the Attorney General.

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

SECTION 1. Section 28-11, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

“(a) The attorney general shall appoint and commission one or more investigators as the exigencies of the public service may require. Persons appointed and commissioned under this section shall have and may exercise all of the powers and authority and the benefits and privileges of a police officer or of a deputy sheriff. These investigators shall consist of personnel whose primary duty will be to conduct investigations as directed by the attorney general.”

SECTION 2. New material is underscored.

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

(Approved June 16, 1981.)

### ACT 162

H.B. NO. 1514

A Bill for an Act Providing That Eye Enucleation May Be Performed by Trained Technicians.

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

SECTION 1. Section 327-7, Hawaii Revised Statutes, is amended to read as follows:

**“§327-7 Rights and duties at death.** (a) The donee may accept or reject the gift. If the donee accepts a gift of the entire body, he may, subject to the terms of the gift, authorize embalming and the use of the body in funeral services. If the gift is of a part of the body, the donee, upon the death of the donor and prior to 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 surviving spouse, next of kin, or other persons under obligation to dispose of the body.

(b) The time of death shall be determined by a physician who tends the donor at his death, or, if none, the physician who certifies the death. The physician shall not participate in the procedures for removing or transplanting a part.

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## **ACT 163**

(c) A person who acts in good faith in accord with the terms of this part or with the anatomical gift laws of another state or a foreign country is not liable for damages in any civil action or subject to prosecution in any criminal proceeding for his act.

(d) The provisions of this part are subject to the laws of this State prescribing powers and duties with respect to autopsies.

(e) A technician who has successfully completed a course of training acceptable to the board of medical examiners may enucleate the eyes of a donor."

**SECTION 2.** New statutory material is underscored.\*

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

(Approved June 16, 1981.)

## **ACT 163**

S.B. NO. 1136

A Bill for an Act Relating to Chapter 353, Hawaii Revised Statutes.

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

**SECTION 1.** Section 353-68, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Paroles may be granted by the Hawaii paroling authority at any time after the prisoner has served the minimum term of imprisonment fixed according to law; provided that where a fine has also been imposed, which has not been paid, and if the prisoner has been imprisoned for at least thirty days, the paroling authority upon being satisfied that the prisoner has petitioned the court for revocation of all or part of such fine pursuant to section 706-645, may nevertheless parole the prisoner without payment of the fine either with or without the condition, subject to determination by the court under section 706-645, that while on such parole he make payment of the fine as the paroling authority deems proper under the circumstances. The proceedings to obtain parole may be initiated by the written recommendation of the superintendent to the paroling authority or may be initiated by the paroling authority without any such recommendation."

**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 17, 1981.)

## **ACT 164**

S.B. NO. 1298

A Bill for an Act Relating to Travel Expenses.

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

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

SECTION 1. Chapter 24, Hawaii Revised Statutes, is amended as follows:

1. Section 24-3 is amended to read:

**"§24-3 Allowance for expenses while traveling on official legislative business during a session within the State.** A member of the legislature whose legal residence is on the island of Oahu and who is required to remain away from the island of his legal residence but within the State overnight or longer while on official legislative business during a session and when authorized by the presiding officer of the respective house, shall receive an allowance to cover all personal expenses such as board, lodging, and incidental expenses but not travel expenses. Such allowance shall be equal to the maximum allowance for such expenses payable to any public officer or employee.

A member of the legislature whose legal residence is on an island other than Oahu and who is required to remain away from the island of his legal residence but within the State overnight or longer while on official legislative business during a session and when authorized by the presiding officer of the respective house, shall receive an allowance to cover all personal expenses such as board, lodging, and incidental expenses but not travel expenses. Such allowance shall be equal to the maximum allowance for such expenses payable to any public officer or employee and shall be in addition to the allowance which he may be entitled to receive under section 24-2, except that he shall not be entitled to this allowance while in attendance at a session of the legislature on Oahu."

2. Section 24-4 is amended to read:

**"§24-4 Allowance for expenses while on official legislative business during periods of recess and interim official legislative business.** When a session of the legislature is recessed for more than three days pursuant to a concurrent resolution or for any interim official legislative business, a member of the legislature while on official legislative business on the island of his legal residence and when authorized by the presiding officer of the respective house, shall receive an allowance of \$10 a day to cover personal expenses.

When a session of the legislature is recessed for more than three days pursuant to a concurrent resolution or for any interim official legislative business, a member of the legislature who is required to remain away from the island of his legal residence but within the State overnight or longer while on official legislative business and when authorized by the presiding officer of the respective house, shall receive an allowance to cover all personal expenses such as board, lodging, and incidental expenses but not travel expenses. Such allowance shall be equal to the maximum allowance for such expenses payable to any public officer or employee."

3. Section 24-5 is amended to read:

**"§24-5 Allowance for expenses while traveling on official legislative business without the State.** A member of the legislature while traveling without the State on official legislative business and when authorized by the presiding officer of the respective house, shall receive an allowance to cover all personal expenses, such as board, lodging, and incidental expenses but not travel expenses. Such allowance shall be equal to the maximum allowance for such expenses payable to any public officer or employee and shall be in addition to the allowance which he may be

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entitled to receive under section 24-2."

SECTION 2. Section 78-15, Hawaii Revised Statutes, is amended to read as follows:

**"§ 78-15 Traveling expenses of state officials.** A state official or representative while traveling abroad on state official business shall be allowed \$60 a day, except for inter-island travel which shall be \$45 a day, which amount is to cover all personal expenses, such as board, lodging, etc., but not fares for transportation; provided that a rate in excess of \$45 a day for inter-island travel and \$60 a day for other travel abroad may be allowed, but neither for more than \$65 a day, upon application to and approval by the governor. The comptroller shall issue a warrant payable to the official for the purpose, at the authorized rate, from the date of his departure to the date of his return upon being furnished by the official with a certified statement setting forth the time of absence."

SECTION 3. It is not the intent of this Act to supersede the substantive amendments contained in Act 2, Session Laws of Hawaii 1981, (S.B. No. 233, S.D. 1) in any manner.

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

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

(Approved June 17, 1981.)

## ACT 165

S.B. NO. 1476

A Bill for an Act Relating to the 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.** 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 sections 77-4 and 77-12. 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.

The rules shall give proper consideration to merit principles of employment, requirements of model conversion plans authorized under section 77-13.5, and due recognition to length of service in the event of demotions resulting from physical conditions. The rules shall provide for methods of pay adjustments which may, in the event of non-disciplinary, involuntary movements or reassessments to lower pay

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

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 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. Section 77-14, Hawaii Revised Statutes, is repealed.

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

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

(Approved June 17, 1981.)

## ACT 166

H.B. NO. 205

A Bill for an Act Relating to Disposition of Convicted Defendants.

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

SECTION 1. Section 706-662, Hawaii Revised Statutes, is amended to read as follows:

**"§ 706-662 Criteria for sentence of extended term of imprisonment for felony.** The court may sentence a person who has been convicted of a felony to an extended term of imprisonment if it finds one or more of the grounds specified in this section. The finding of the court shall be incorporated in the record.

- (1) Persistent offender. The defendant is a persistent offender whose commitment 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 commitment 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 commitment 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

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 167

- behavior with heedless indifference to consequences, and that such condition makes him a serious danger to others.
- (4) Multiple offender. The defendant is a multiple offender whose criminality was so extensive that a sentence of imprisonment for an extended term is warranted. The court shall not make such a finding unless:
- The defendant is being sentenced for two or more felonies or is already under sentence of imprisonment for felony; or
  - 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 or handicapped. The defendant is an offender against the elderly or handicapped whose commitment for an extended term is necessary for the protection of the public. The court shall not make such a finding unless:
- The defendant inflicts serious bodily injury upon a person who is sixty years of age or older; or against a person who is blind, a paraplegic, or a quadriplegic; and
  - Such disability is known or reasonably should be known to the defendant; and
  - The defendant attempts or commits any of the following crimes: murder, rape, robbery, felonious assault, burglary and kidnapping."

SECTION 2. Statutory material to be repealed is bracketed.\*

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

(Approved June 17, 1981.)

## ACT 167

H.B. NO. 368

A Bill for an Act Relating to Public Utilities.

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

SECTION 1. Section 269-1, Hawaii Revised Statutes, is amended to read as follows:

**“§269-1 Definitions.** As used in this chapter:

“Public utility” means and includes every person who may own, control, operate, or manage as owner, lessee, trustee, receiver, or otherwise, whether under a franchise, charter, license, articles of association, or otherwise, any plant or equipment, or any part thereof, directly or indirectly for public use, for the transportation of passengers or freight, or the conveyance or transmission of telephone or telegraph

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

messages, or the furnishing of facilities for the transmission of intelligence by electricity by land or water or air within the State, or between points within the State, or for the production, conveyance, transmission, delivery, or furnishing of light, power, heat, cold, water, gas, or oil, or for the storage or warehousing of goods, or the disposal of sewage; provided that the term (1) means and includes any person, insofar as such person owns or operates a private sewer company or sewer facility; (2) shall not include any person insofar as such person owns or operates an aerial transportation enterprise; (3) shall not include persons owning or operating taxicabs, as defined herein; (4) shall not include common carriers transporting only freight on the public highways, unless operating within localities or along routes or between points which the public utilities commission finds to be inadequately serviced without regulation under this chapter; (5) shall not include persons engaged in the business of warehousing or storage unless the commission finds that regulation thereof is necessary in the public interest; (6) shall not include the business of any carrier by water to the extent that such carrier enters into private contracts for towage, salvage, hauling, or carriage between points within the State and the carriage is not pursuant to either an established schedule or an undertaking to perform carriage services on behalf of the public generally, and also shall not include the business of any carrier by water, substantially engaged in interstate or foreign commerce, transporting passengers on luxury cruises between points within the State or on luxury round-trip cruises returning to the point of departure; and (7) shall not include any person which (A) controls, operates, or manages plants or facilities for production, transmission, or furnishing of power primarily or entirely from non-fossil fuel sources, and (B) provides, sells, or transmits all of such power, except such power as is used in its own internal operations, directly to a public utility for transmission to the public.

In the event the application of this chapter is ordered by the commission in any case provided in (3) and (4) the business of any public utility which presents evidence of bona fide operation on the date of the commencement of the proceedings resulting in the order shall be presumed to be necessary to public convenience and necessity, but any certificate issued under this proviso shall nevertheless be subject to such terms and conditions as the commission may prescribe, as provided in section 269-20.

**"Taxicab"** means and includes:

- (1) 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
- (2) 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 city of Honolulu, and a terminal in a geographical district outside the limits of the city of Honolulu, and vice versa, without picking up passengers other than at the terminals or fixed stands; provided that passengers may be unloaded at any point between terminals; and provided further that this definition relating to motor vehicles operating between terminals shall pertain only

to those motor vehicles whose operators or owners were duly licensed (under section 445-222 and any other applicable provision of law or ordinance) and doing business between such terminals on January 1, 1957.

"Public highways" has the meaning defined by section 264-1, including both state and county highways, but operation upon rails shall not be deemed transportation on public highways."

**SECTION 2.** Section 269-24, Hawaii Revised Statutes, is repealed.

**SECTION 3.** Section 269-30, Hawaii Revised Statutes, is amended to read as follows:

**“§269-30 Finances; public utility fee.** Section 607-5 to 607-9 shall apply to the public utilities commission and each commissioner, as well as to the supreme and circuit courts, and all costs and fees paid or collected hereunder shall be deposited with the director of finance of the State to the credit of the general fund.

There shall also be paid to the commission in each of the months of July and December in each year by each public utility which is subject to investigation by the commission, a fee which shall be equal to one-eighth of one per cent of the gross income from the public utility business carried on by the public utility during the preceding year, or the sum of \$15, whichever is greater. This fee shall likewise be deposited with the director of finance of the State to the credit of the general fund."

**SECTION 4.** Section 238-1, Hawaii Revised Statutes, is amended by amending the definition of "use" to read as follows:

"Use" (and any nounal, verbal, adjective, adverbial, and other equivalent form of the term) herein used interchangeably means any use, whether the use is of such nature as to cause the property to be appreciably consumed or not, or the keeping of the property for such use or for sale, and shall include the exercise of any right or power over tangible personal property incident to the ownership of that property, but the term "use" shall not include:

- (1) Temporary use of property, not of a perishable or quickly consumable nature, where the property is imported into the State for temporary use (not sale) therein by the person importing the same and is not intended to be, and is not, kept permanently in the State (as for example without limiting the generality of the foregoing language: (A) in the case of a contractor importing permanent equipment for the performance of a construction contract, with intent to remove, and who does remove, the equipment out of the State upon completing the contract; (B) in the case of moving picture films imported for use in theaters in the State with intent or under contract to transport the same out of the State after completion of such use; (C) in the case of a transient visitor importing an automobile or other belongings into the State to be used by him while therein but which are to be used and are removed upon his departure from the State).
- (2) Use by the taxpayer of property acquired by him solely by way of gift.
- (3) Use which is limited to the receipt of articles and the return thereof, to the person from whom acquired, immediately or within a reasonable time

- either after temporary trial or without trial.
- (4) Use of goods imported into the State by the owner of a vessel or vessels engaged in interstate or foreign commerce and held for and used only as ship stores for the vessels.
  - (5) The use or keeping for use of household goods, personal effects, and private automobiles imported into the State for nonbusiness use by a person who (A) acquired them in another state, territory, district, or country, (B) at the time of the acquisition was a bona fide resident of another state, territory, district, or country, (C) acquired the property for use outside the State, and (D) made actual and substantial use thereof outside this State; provided that as to an article acquired less than three months prior to the time of its importation into the State it shall be presumed, until and unless clearly proved to the contrary, that it was acquired for use in the State and that its use outside the State was not actual and substantial.
  - (6) The leasing or renting of any aircraft or the keeping of any aircraft solely for leasing or renting to lessees or renters using the aircraft for commercial transportation of passengers and goods.
  - (7) The use of oceangoing vehicles for passenger or passenger and goods transportation from one point to another within the State as a public utility as defined in chapter 269.

With regard to purchases made and distributed under the authority of chapter 421 or under the authority of the Fish Marketing Act under chapter 422, a cooperative association shall be deemed the user thereof."

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

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

(Approved June 17, 1981.)

## ACT 168

H.B. NO. 693

A Bill for an Act Relating to Deposit of State Funds in Treasury.

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

**SECTION 1.** Section 37-54, Hawaii Revised Statutes, is amended to read:

**"§37-54 Deposit of state funds in treasury.** (a) All state funds shall be deposited in the state treasury except funds that belong to patients and wards to whom the State is responsible for the funds and as otherwise provided by law.

(b) For purposes of this section, "state funds" mean moneys that have come into the possession of a state officer or employee who has responsibility on behalf of the State for the initial custody, accountability, and disposition of the moneys."

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 169

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 17, 1981.)

## ACT 169

H.B. NO. 706

A Bill for an Act Relating to Audit and Accounting.

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

SECTION 1. Section 40-35, Hawaii Revised Statutes, is amended to read:

**“§40-35 Payment to State under protest.** (a) Any disputed portion of moneys representing a claim in favor of the State may be paid under protest to a public accountant of the department, board, bureau, commission, or other agency of the State with which the claimant has the dispute. The protest shall be in writing, signed by the person making the payment, or by his agent, and shall set forth the grounds of protest. If any payment, or any portion of any payment, is made under protest, the public accountant to whom the payment is made shall hold that portion of the moneys paid under protest in a trust account in the state treasury for a period of thirty days from the date of payment.

(b) Action to recover moneys paid under protest or proceedings to adjust the claim may be commenced by the payer or claimant against the public accountant to whom the payment was made, in a court of competent jurisdiction, within thirty days from the date of payment. If no suit or proceeding is brought within the thirty-day period, the money paid under protest shall be deposited into the appropriate account in the treasury of the State by the accountant and the amount deposited shall thereupon become a government realization. Any action to recover payment of taxes under protest shall be commenced in the tax appeal court.

(c) If action to recover the money paid under protest or a proceeding to adjust the claim is commenced within the thirty-day period, the amount paid under protest shall, pending final decision of the cause, be deposited by the public accountant into the state treasury, in a fund to be known as the “litigated claims fund”, together with subsequent payments or portions thereof, made to the accountant under the same protest. If judgment is rendered in favor of the claimant, the claimant shall be paid the amount of the judgment out of the litigated claims fund, by warrants signed by the comptroller upon vouchers approved by the head of the department, board, bureau, commission, or other agency with which the claimant had the dispute. If the amount of money in the litigated claims fund is insufficient to pay the judgment, the head of the department, board, bureau, commission, or other agency with which the claimant had the dispute shall include in their respective budget requests to the department of budget and finance an amount necessary to pay the judgment, plus interest, as provided herein. Interest at the rate of two per cent a year from the date of

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

each payment under protest shall also be paid out of the amount appropriated for the judgment payable to the claimant; provided that if the claim is for the recovery of taxes paid under protest by the claimant, the rate of interest and the overpayment of taxes shall be refunded in the manner provided in section 231-23(d) and (e). The amount of the judgment to be paid to the claimant shall be ascertained by the head of the department, board, bureau, commission, or other agency with which the claimant had the dispute from a certified copy of the judgment, which shall be the authority for making payment to the claimant. If judgment is rendered against the claimant, the amount of money paid by the claimant under protest which is in the litigated claims fund shall be deposited into the appropriate account in the treasury of the State and the amount shall become a government realization."

**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 17, 1981.)

## ACT 170

H.B. NO. 926

**A Bill for an Act Relating to the Confidentiality of Tax Returns and Information in Tax Returns.**

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

**SECTION 1.** Section 237-34, Hawaii Revised Statutes, is amended to read:

**"§237-34 Filing of returns; disclosure of returns unlawful, penalty; destruction of returns.** (a) All monthly and annual returns shall be transmitted to the office of the taxation district in which the privilege upon which the tax accrued is exercised. Where the privilege is exercised in more than one taxation district the returns shall be transmitted to the office of the first taxation district.

(b) All tax returns and return information required to be filed under this chapter, and the report of any investigation of the return or of the subject matter of the return, shall be confidential. It shall be unlawful for any person or any officer or employee of the State to intentionally make known information imparted by any tax return or return information filed pursuant to this chapter, or any report of any investigation of the return or of the subject matter of the return, or to wilfully permit any such return, return information, or report so made, or any copy thereof, to be seen or examined by any person; provided that for tax purposes only the taxpayer, the taxpayer's authorized agent, or persons with a material interest in the return, return information, or report may examine them. Unless otherwise provided by law, persons with a material interest in the return, return information, or report shall include:

- (1) Trustees;
- (2) Partners;

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

- (3) Persons named in a board resolution or a one per cent shareholder in case of a corporate return;
- (4) The person authorized to act for a corporation in dissolution;
- (5) The shareholder of a subchapter S corporation;
- (6) The personal representative, trustee, heir, or beneficiary of an estate or trust in case of the estate's or decedent's return;
- (7) The committee, trustee, or guardian of any person in paragraphs (1) to (6) who is incompetent;
- (8) The trustee in bankruptcy or receiver, and the attorney-in-fact of any person in paragraphs (1) to (7);
- (9) Persons duly authorized by the State in connection with their official duties;
- (10) Any duly accredited tax official of the United States or of any state or territory; and
- (11) The Multistate Tax Commission or its authorized representative.

Any violation of this subsection shall be a misdemeanor.

(c) The department may destroy the monthly returns filed pursuant to section 237-30, or any of them, upon the expiration of three years after the end of the calendar year in which the taxes so returned accrued."

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 17, 1981.)

ACT 171

H.B. NO. 1310

A Bill for an Act Relating to Custodial Interference.

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

SECTION 1. Chapter 707, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**“§707- Custodial interference in the first degree.** (1) A person commits the offense of custodial interference in the first degree if:

- (a) Being a relative of the person, he knowingly takes or entices a person less than eighteen years old from any other person who has a right to custody pursuant to a court order, judgment, or decree; and
  - (b) He removes himself and the person less than eighteen years old from the State.
- (2) Custodial interference in the first degree is a class C felony.

**§707- Custodial interference in the first degree.** (1) A person commits the offense of custodial interference in the second degree if:

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

- (a) He knowingly takes or entices a person less than eighteen years old from his lawful custodian, knowing that he has no right to do so; or
  - (b) He knowingly takes or entices from lawful custody any incompetent person, or other person entrusted by authority of law to the custody of another person or an institution.
- (2) Custodial interference in the second degree is a misdemeanor."

SECTION 2. Section 707-722, Hawaii Revised Statutes, is amended to read as follows:

**"§ 707-722 Unlawful imprisonment in the second degree.** (1) A person commits the offense of unlawful imprisonment in the second degree if he knowingly restrains another person.

(2) In any prosecution under this section it is an affirmative defense, that (a) the person restrained was less than eighteen years old, (b) the defendant was a relative of the victim, and (c) his sole purpose was to assume custody over the victim. In that case, the liability of the defendant, if any, is governed by section \_\_\_\_\_ and he may be convicted under section \_\_\_\_\_ although charged under this section.

(3) In any prosecution under this section it is an affirmative defense, that the person restrained (a) was on or in the immediate vicinity of the premises of a retail mercantile establishment for the purpose of investigation or questioning as to the ownership of any merchandise; (b) was restrained in a reasonable manner and for not more than a reasonable time; (c) was restrained to permit such investigation or questioning by a police officer or by the owner of the retail mercantile establishment, his authorized employee or agent; and (d) that such police officer, owner, employee or agent had reasonable grounds to believe that the person so detained was committing or attempting to commit theft of merchandise on the premises.

(4) Unlawful imprisonment in the second degree is a misdemeanor."

SECTION 3. Section 707-723, Hawaii Revised Statutes, is repealed.

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

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

(Approved June 17, 1981.)

A Bill for an Act Relating to Employment Security.

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

SECTION 1. Section 383-29, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) An unemployed individual shall be eligible to receive benefits with respect to any week only if the department of labor and industrial relations finds that:

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

- (1) Claim. He has made a claim for benefits with respect to such week in accordance with such regulations as the department may prescribe.
- (2) Registration. He has registered for work at, and thereafter continued to report at, an employment office in accordance with such regulations as the department may prescribe, except that the department may, by regulation, waive or alter either or both of the requirements of this paragraph as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which it finds that compliance with such requirements would be oppressive, or would be inconsistent with the purpose of this chapter; provided that no such regulation shall conflict with section 383-21.
- (3) Availability. He is able to work and is available for work; provided that no claimant shall be considered ineligible with respect to any week of unemployment for failure to comply with this paragraph if such failure is due to an illness or disability, as evidenced by a physician's certificate, which occurs during an uninterrupted period of unemployment with respect to which benefits are claimed and no work which would have been suitable prior to the beginning of such illness and disability has been offered the claimant.
- (4) Waiting period. He has been unemployed for a waiting period of one week within his benefit year. No week shall be counted as a waiting period:
  - (A) If benefits have been paid with respect thereto;
  - (B) Unless the individual was eligible for benefits with respect thereto as provided in this section and section 383-30, except for the requirements of this paragraph.
- (5) Wages for insured work; weeks of employment.
  - (A) In the case of an individual who has established a benefit year prior to January 3, 1965, he has been paid wages for insured work during his base period in an amount equal to at least the amount appearing in column C of the schedule in section 383-22 on the line on which, in column B of the schedule, appears his weekly benefit amount.
  - (B) In the case of an individual who has established a benefit year after January 2, 1965, but prior to January 2, 1966, he has had during his base period a total of fourteen or more weeks of employment as defined in section 383-1(19) and has been paid wages for insured work during his base period in an amount equal to at least the amount appearing in column C of the schedule in section 383-22 on the line on which in column B of the schedule, appears his weekly benefit amount.
  - (C) In the case of an individual whose benefit year begins on or after January 2, 1966, he has had during his base period a total of fourteen or more weeks of employment as defined in section 383-1(19) and has been paid wages for insured work during his base period in an amount equal to at least thirty times his weekly benefit amount as determined under section 383-22(b). For the purposes of this subparagraph, wages for insured work shall include wages paid for

services:

- (i) Which were not employment, as defined in section 383-2 or pursuant to an election under section 383-77 prior to January 1, 1978, at any time during the one-year period ending December 31, 1975; and
  - (ii) Which are agricultural labor as defined in section 383-9 except such service excluded under section 383-7(1), or are domestic service except such service excluded under section 383-7(2); except to the extent that assistance under title II of the Emergency Jobs and Unemployment Assistance Act of 1974 was paid on the basis of such services.
- (D) For the purposes of this paragraph, wages and weeks of employment shall be counted for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the dates on which the employing unit by which such wages or other remuneration as provided in section 383-1(19) were paid has satisfied the conditions of section 383-1(9) with respect to becoming an employer."

**SECTION 2.** Statutory material to be repealed is bracketed.\*

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

(Approved June 17, 1981.)

### ACT 173

H.B. NO. 1359

A Bill for an Act Relating to Employment Security.

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

**SECTION 1.** Section 383-170, Hawaii Revised Statutes, is amended to read:

**"§383-170 Eligibility requirements for extended benefits.** An individual shall be eligible to receive extended benefits with respect to any week of unemployment in his eligibility period only if the department finds that with respect to such week:

- (1) He is an "exhaustee" as defined in section 383-168(11).
- (2) He has satisfied the requirements of this chapter for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits.
- (3) (A) Notwithstanding the provisions of paragraph (2) of this section, an individual shall be ineligible for payment of extended benefits for any week of unemployment in his eligibility period if the department finds that during such period:
  - (i) He failed to accept any offer of suitable work or failed to apply for any suitable work (as defined under subparagraph (C) to which he was referred by the department; or

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

- (ii) He failed to actively engage in seeking work as prescribed under subparagraph (E).
- (B) Any individual who has been found ineligible for extended benefits by reason of the provisions in subparagraph (A) shall also be denied benefits beginning with the first day of the week following the week in which such failure occurred and until he has been employed in each of four subsequent weeks (whether or not consecutive) and has earned remuneration equal to not less than four times the extended weekly benefit amount.
- (C) For purposes of this paragraph, the term "suitable work" means, with respect to any individual, any work which is within such individual's capabilities; provided that:
  - (i) The gross average weekly remuneration payable for the work shall exceed the sum of the individual's extended weekly benefit amount plus the amount, if any, of supplemental unemployment benefits (as defined in section 501(c)(17)(D) of the federal Internal Revenue Code of 1954, as amended) payable to such individual for such week; and
  - (ii) The work pays wages equal to the higher of the minimum wages provided by section 6(a)(1) of the Fair Labor Standards Act of 1938, without regard to any exemption; or the state or local minimum wage; and
  - (iii) No individual shall be denied extended benefits for failure to accept an offer of or referral to any job which meets the definition of suitability described above if the position was not offered to such individual in writing and was not listed with the employment service; or such failure could not result in a denial of benefits under the definition of suitable work for regular benefit claimants in section 383-30(3) to the extent that the criteria of suitability in that section are not inconsistent with this subparagraph (C); or the individual furnishes satisfactory evidence to the department that the individual's prospects of obtaining work in the individual's customary occupation within a reasonably short period are good. If such evidence is deemed satisfactory for this purpose, the determination of whether any work is suitable with respect to such individual shall be made in accordance with the definition of suitable work in section 383-30(3) without regard to the definition specified in this subparagraph.
- (D) Notwithstanding the provisions of this paragraph to the contrary, no work shall be deemed to be suitable work for an individual which does not conform with the labor standard provisions required by section 3304(a)(5) of the federal Internal Revenue Code of 1954, as amended, and set forth under section 383-30(3).
- (E) For the purposes of subparagraph (A)(ii), an individual shall be treated as actively engaged in seeking work during any week if:
  - (i) The individual has engaged in a systematic and sustained

- effort to obtain work during such week; and
- (ii) The individual furnishes tangible evidence that he has engaged in such effort during such week.
- (F) The employment service shall refer any claimant entitled to extended benefits under this chapter to any suitable work which meets the criteria prescribed in subparagraph (C)."

**SECTION 2.** New statutory material is underscored.\*

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

(Approved June 17, 1981.)

**ACT 174**

**H.B. NO. 1406**

A Bill for an Act Relating to Capital Cost Recovery.

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

**SECTION 1.** The legislature finds that the need for a simplified, rapid capital cost recovery system is essential for the revitalization of business to encourage stable long-term economic growth. Such a system would replace the current useful lives concept which stretches depreciation deductions over varying periods of time based on estimates of how long the asset will be in use. The useful life yardstick may have been appropriate in the past, but is no longer in keeping with present economic conditions.

During the past decade, a variety of changes — economic, political, social, and technological — have dramatically altered the business environment. These changes have exerted pressures upon businesses — large and small — in the form of accelerating inflation, advancing technology, increasing competition, and rising costs for capital. Basic reform of the tax depreciation system will help alleviate these pressures by stimulating much needed increases in investment for new, more efficient plant and equipment.

The legislature finds that there are three reasons for enacting a rapid capital cost recovery system. The first is that a faster rate of recovery of productive assets would lower the cost of capital and encourage greater investment in new plant and equipment. The resulting expansion and modernization of equipment would improve productivity, in turn easing price pressures, and thereby providing real wage increases for workers.

Second, faster recovery would reduce the erosion of capital which inflation causes under the existing long useful lives depreciation and thereby reduce the cost of doing business.

Third, a simplified system would extend the benefits of rapid recovery to all firms without the restrictions and inhibitions of complex record keeping and accounting rules. With no disputes over useful lives, an enormous administrative burden would be lifted from both the taxpayer and the state department of taxation.

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## **ACT 175**

A major source of audit controversy also would be ended.

Congress has also recognized the need for basic reform of the tax depreciation system. Now pending in Congress is a capital cost recovery bill, H.R. 1053. President Reagan also has proposed similar capital recovery provisions in his message to Congress in February 1981.

The legislature recognizes the urgency of enacting a capital recovery system and also the efforts of the State to conform the State Income Tax Law with the Internal Revenue Code. Therefore, the purpose of this Act is to adopt the capital recovery system finally adopted by Congress at the same time the federal law becomes effective.

**SECTION 2.** (a) If the provisions of H.R. 1053, "Capital Cost Recovery Act of 1981", concerning capital cost recovery for income tax purposes, or similar law concerning the recovery of capital costs such as S. 317, "Investment Tax Act of 1981", are enacted by Congress during the calendar year 1981, then the provisions of H.R. 1053 or such similar law concerning a capital cost recovery system for income tax purposes and, in particular, provisions:

- (1) Adopting a new section 168 (with respect to capital cost recovery deduction) of the Internal Revenue Code of 1954, as amended, or similar new section concerning the recovery of capital costs;
- (2) Revising or replacing all or portions of section 167 (with respect to depreciation) of the Internal Revenue Code of 1954, as amended, relating to the depreciation of property used in trade or business, or of property held for the production of income;
- (3) Conforming amendments relating to the recovery of capital costs or depreciation, or both, to the Internal Revenue Code of 1954, as amended, as made operative in this State under chapter 235, Hawaii Revised Statutes; and
- (4) Effective date or dates;

are adopted and made operative for the State of Hawaii, on the effective date or dates contained in the federal law.

(b) If H.R. 1053 or similar law referred to in subsection (a) of this section is enacted by Congress during the calendar year 1981, the department of taxation shall submit appropriate amendments to chapter 235, Hawaii Revised Statutes, as part of the bill required to be submitted to the 1982 regular session of the legislature by section 235-2.3(p), Hawaii Revised Statutes.

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

(Approved June 17, 1981.)

## **ACT 175**

**H.B. NO. 1471**

**A Bill for an Act Relating to Banks.**

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

**SECTION 1.** Section 403-71, Hawaii Revised Statutes, is amended to read as follows:

**"§403-71 Amount of reserve; regulations and restrictions.** Every bank shall have on hand at all times in actual money of the United States an amount equal to at least twelve per cent of the total demand deposits, five per cent of the total time deposits of the bank, and five per cent of the total savings deposits of the bank; provided that fifty per cent of the reserve required by law to be maintained may be deposited, payable on demand, in banks or trust companies (in the State or elsewhere) approved by the director of regulatory agencies of the State; the balance of the reserve shall be cash in the vaults of the bank; provided further, that banks in the State may have on deposit in banks in the city of Honolulu or with the written approval of the director in banks in the other states of the United States fifty per cent of the cash required to be kept for commercial and savings deposits. No bank shall be required to maintain any reserve on deposits of public funds. If any bank becomes a member of the federal reserve system or is required to maintain reserves by the Board of Governors of the Federal Reserve System or by federal law, it shall comply with the reserve requirements of the Federal Reserve Act and its amendments, and its compliance therewith shall be deemed a compliance with this section relative to reserves; provided that any bank required by the Board of Governors of the Federal Reserve System or by federal law to comply with the federal reserve system reserve requirements over a period of time shall have its State reserve requirements reduced accordingly over the same period of time at identical percentage amounts."

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 17, 1981.)

## ACT 176

H.B. NO. 1522

A Bill for an Act Relating to Recovery of Leased or Rented Personal Property.

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

SECTION 1. Section 633-27, Hawaii Revised Statutes is amended to read as follows:

**"§633-27 District courts; powers.** (a) All district courts, except as otherwise provided, shall exercise jurisdiction conferred by this chapter, and while sitting in the exercise of that jurisdiction, shall be known and referred to as the small claims division of the district court; provided that the jurisdiction of the court when sitting as a small claims division of the district court shall be confined to:

- (1) Cases for the recovery of money only where the amount claimed does not exceed \$1,000 exclusive of interest and costs, except as provided by section 633-30;
- (2) Cases involving disagreement between landlord and tenant about the

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

- security deposit in a residential landlord-tenant relationship; and
- (3) Cases for the return of leased or rented personal property worth \$600 or less, where the amount claimed owed for such lease or rental does not exceed \$1,000 exclusive of interest and costs.

This chapter shall not abridge or affect the jurisdiction of the district courts under paragraphs (1) and (3) to determine cases under the ordinary procedures of the court, it being optional with the parties to such cases to elect the procedure of the small claims division of the district court or the ordinary procedures, as provided by rule of court. In cases arising under paragraph (2) the jurisdiction of the small claims division of the district court shall be exclusive.

(b) Actions shall be commenced in small claims division of the district court or the judicial circuit in which the defendant or a majority of the defendants reside or the claim for relief arose, unless service cannot be made on all of the defendants, in that circuit, in which case action may be commenced in any circuit in which all of the defendants can be served.

(c) The small claims division of the district court may grant monetary relief and equitable relief except that:

- (1) Monetary relief shall not include punitive damages; and
- (2) Except as specifically provided in section 633-8, equitable relief shall be granted only as between parties to a landlord-tenant disagreement pursuant to chapter 521, and shall be limited to orders to repair, replace, refund, reform, and rescind.

(d) Class actions are prohibited in the small claims division of the district court."

SECTION 2. Section 633-8, Hawaii Revised Statutes, is amended to read as follows:

**"§633-8 Order to show cause.** Upon the filing of a complaint with a copy of a lease or rental contract and an affidavit sworn to by the plaintiff or some competent affiant setting forth a statement of facts sufficient to show that the leased or rented personal property has been in the defendant's possession at least fourteen days after the termination of the lease or rental contract, either by passage of time or by reason of any default under the terms and conditions of the lease or rental contract, the court may issue an order directing the defendant to either return the leased or rented personal property to the plaintiff or to appear and show cause for the possession at such time as the court shall direct, but not later than five days from the date of service of the order to show cause. The order to show cause shall also provide that, if the leased or rented personal property is not returned to the plaintiff prior to the hearing, the defendant shall, if reasonably feasible, produce the property at the hearing. If, at the hearing, it is proved to the satisfaction of the court that the plaintiff is entitled to possession of the leased or rented personal property, it shall issue an order directed to the sheriff, or his deputy, commanding him to seize the personal property therein described and to deliver the same to the plaintiff or his agent. Service of the order to show cause shall be as provided by law or rule of court for cases in the district courts, or by registered mail or by certified mail with return receipt showing delivery within the circuit."

SECTION 3. Section 604-6.1, Hawaii Revised Statutes, is amended to read as follows:

**“§604-6.1 Jurisdiction of district courts; leased or rented personal property.** Jurisdiction is conferred upon the district courts to try all cases resulting from the retention of leased or rented personal property, the value of which does not exceed \$5,000.”

SECTION 4. Section 604-6.2, Hawaii Revised Statutes, is amended to read as follows:

**“§604-6.2 Order to show cause.** Upon the filing of a complaint with a copy of a lease or rental contract and an affidavit sworn to by the plaintiff or some competent affiant setting forth a statement of facts sufficient to show that the leased or rented personal property has been in the defendant's possession at least fourteen days after the termination of the lease or rental contract, either by passage of time or by reason of any default under the terms and conditions of the lease or rental contract, the court may issue an order directing the defendant to either return the leased or rented personal property to the plaintiff or to appear and show cause for the possession at such time as the court shall direct, but not later than ten days from the date of service of the order to show cause. The order to show cause shall also provide that, if the leased or rented personal property is not returned to the plaintiff prior to the hearing, the defendant shall, if reasonably feasible, produce the property at the hearing. If, at the hearing, it is proved to the satisfaction of the court that the plaintiff is entitled to possession of the leased or rented personal property, it shall issue an order directed to the sheriff, or his deputy, commanding him to seize the personal property therein described and to deliver the same to the plaintiff or his agent. Service of the order to show cause shall be as provided by law or rule of court for cases in the district courts, or by registered mail or by certified mail with return receipt showing delivery within the circuit.”

SECTION 5. Section 603-29, Hawaii Revised Statutes, is amended to read as follows:

**“§603-29 Order to show cause.** Whenever a complaint has been filed in circuit court alleging leased or rented personal property the value of which is \$5,000 or more, has been retained by the defendant fourteen days after the termination of the lease or rental contract, either by passage of time or by reason of any default under the terms and conditions of the lease or rental contract, the plaintiff may petition the court for an order to show cause.

Upon the filing of the petition with a copy of the lease or rental contract and an affidavit sworn to by the plaintiff or some competent affiant setting forth a statement of facts sufficient to show the termination of the lease or rental contract, the court may issue an order directing the defendant to either return the leased or rented personal property to the plaintiff or to appear and show cause for the possession at such time as the court shall direct but not later than ten days from the date of service of the order to show cause. The order to show cause shall also provide that if the leased or rented personal property is not returned to the plaintiff prior to the hearing, the defendant shall, if reasonably feasible, produce the property at the hearing. If, at the hearing, it is proved to the satisfaction of the court that the plaintiff is entitled to

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possession of the leased or rented personal property, it shall issue an order directed to the sheriff, or his deputy, commanding him to seize the personal property therein described and to deliver the same to the plaintiff or his agent. Service of the order to show cause shall be as provided by law or rule of court for cases in the circuit courts, or by registered mail or by certified mail with return receipt showing delivery within the circuit."

SECTION 6. The amendments made by this Act shall apply to any action or proceeding which is pending, or commenced on or after the date of its approval.

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

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

(Approved June 17, 1981.)

## ACT 177

H.B. NO. 1523

A Bill for an Act Relating to the Penal Code.

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

SECTION 1. Section 708-813, Hawaii Revised Statutes, is amended to read as follows:

**"§708-813 Criminal trespass in the first degree.** (1) A person commits the offense of criminal trespass in the first degree if:

- (a) That person knowingly enters or remains unlawfully:
  - (i) In a dwelling; or
  - (ii) In or upon the premises of a hotel or apartment building; or
- (b) That person:
  - (i) Knowingly enters or remains unlawfully in or upon premises which are fenced or enclosed in a manner designed to exclude intruders; and
  - (ii) Is in possession of a firearm, as defined in section 134-1, at the time of such intrusion; or
- (c) That person enters or remains unlawfully in or upon the premises of any school, as defined in section 297-1, after reasonable warning or request to leave by school authorities or a police officer.

(2) Criminal trespass in the first degree is a misdemeanor."

SECTION 2. Section 708-814, Hawaii Revised Statutes, is amended to read as follows:

**"§708-814 Criminal trespass in the second degree.** (1) A person commits the offense of criminal trespass in the second degree if:

- (a) He knowingly enters or remains unlawfully in or upon premises which are

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

- enclosed in a manner designed to exclude intruders or are fenced; or
- (b) He enters or remains unlawfully in or upon commercial premises after reasonable warning or request to leave by the owner or lessee of the commercial premises or his authorized agent or police officer; provided that this paragraph shall not apply to any conduct or activity subject to regulation by the National Labor Relations Act.

(2) Criminal trespass in the second degree is a petty misdemeanor."

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

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

(Approved June 17, 1981.)

## ACT 178

H.B. NO. 1604

A Bill for an Act Relating to State Campaign Spending Law.

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

**SECTION 1.** Section 11-226, Hawaii Revised Statutes, is amended to read as follows:

**"§11-226 Tax deductions.** (a) As a condition of allowing an individual to take a tax deduction for campaign contributions to a candidate pursuant to section 235-7(g)(2), a candidate shall have filed an affidavit with the commission prior to or simultaneous with the filing of his organizational report stating that he shall not exceed the expenditure limit for his respective office as set forth in section 11-209.

(b) The affidavit shall remain effective until the termination of the central committee of the candidate or the opening of filing for the next succeeding election for the office held or sought at the time of filing of the affidavit whichever occurs first. An affidavit filed under this section may not be rescinded.

(c) The director of taxation shall not allow any individual or married couple filing jointly to take a deduction against any tax due, pursuant to section 235-7(g)(2), for any contribution to a candidate for statewide or county office, who has not filed an affidavit as provided in this section.

(d) The commission shall forward a certified copy of any affidavit filed under this section to the director of taxation.

(e) The director of taxation shall only allow an individual or married couple filing jointly to take an income tax deduction, pursuant to section 235-7(g)(2), for any contribution to a candidate for a statewide or county office, if a receipt is attached to the state income tax return. Canceled checks or copies of the same shall be considered adequate receipt forms.

(f) If a candidate has not filed an affidavit pursuant to this section, he shall inform all contributors to his campaign in writing immediately upon receipt of the

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

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contribution that they are not entitled to count their contributions to him for purposes of taking a tax deduction under this section."

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 17, 1981.)

ACT 179

H.B. NO. 1876

A Bill for an Act Relating to Gasohol.

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

SECTION 1. The purpose of this Act is to provide incentives to encourage the production and purchase of gasohol.

SECTION 2. Section 237-27.1, Hawaii Revised Statutes, is amended to read as follows:

"**§237-27.1 Exemption of sale of gasohol.** (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 for consumption or use by the purchaser and not for resale from July 1, 1980 to July 1, 1985. Starting July 1, 1985, the exemption is extended to June 30, 1992 exclusively for gasohol which is derived from alcohol produced within the State from biomass.

(b) As used in this section "gasohol" means a gasoline and alcohol liquid fuel mixture consisting of at least ten per cent ethanol (biomass derived) commercially usable as a fuel to power 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 and gasoline sold in the State.

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

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

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

(Approved June 17, 1981.)

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 180

S.B. NO. 1449

A Bill for an Act Relating to Collective Bargaining in Public Employment.

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

SECTION 1. Section 89-4, Hawaii Revised Statutes, is amended to read as follows:

**“§89-4 Payroll deductions.** (a) Upon receiving from an exclusive representative a written statement specifying the amount of regular dues required of its members in the appropriate bargaining unit, the employer shall deduct this amount from the payroll of every member employee in the appropriate bargaining unit and remit the amount to the exclusive representative; provided that the employer shall make the deduction only upon written authorization from a member employee, such authorization being executed any time after his joining an employee organization. Additionally, the employer shall deduct an amount equivalent to the regular dues from the payroll of every nonmember employee in the appropriate bargaining unit, and shall remit the amount to the exclusive representative; provided that the deduction from the payroll of every nonmember employee shall be made only for an exclusive representative which provides for a procedure for determining the amount of a refund to any employee who demands the return of any part of the deduction which represents the employees' pro rata share of expenditures made by the exclusive representative for activities of a political and ideological nature unrelated to terms and conditions of employment. If a nonmember employee objects to the amount to be refunded, he may petition the board for review thereof within fifteen days after notice of the refund has been received. If an employee organization is no longer the exclusive representative of the appropriate bargaining unit, the deduction from the payroll of nonmembers shall terminate.

(b) The employer shall, upon written authorization by an employee, executed at any time after his joining an employee organization, deduct from the payroll of the employee the amount of membership dues, initiation fees, group insurance premiums, and other association benefits and shall remit the amount to the employee organization designated by the employee.

(c) The employer shall continue all payroll assignments authorized by an employee prior to the effective date of this chapter and all assignments authorized under subsection (b) until notification is submitted by an employee to discontinue his assignments.”

SECTION 2. Section 89-2, Hawaii Revised Statutes, is amended by deleting the definition “service fee”.

SECTION 3. Section 89-3, Hawaii Revised Statutes, is amended to read as follows:

**“§89-3 Rights of employees.** Employees shall have the right of self-organization and the right to form, join, or assist any employee organization for the purpose of bargaining collectively through representatives of their own choosing on questions of wages, hours, and other terms and conditions of employment, and to engage in lawful, concerted activities for the purpose of collective bargaining or other mutual aid or protection, free from interference, restraint, or coercion. An employee

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shall have the right to refrain from any or all of such activities, except to the extent of making such payment of amounts equivalent to regular dues to an exclusive representative as provided in section 89-4."

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

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

(Approved June 18, 1981.)

## **ACT 181**

H.B. NO. 174

A Bill for an Act Relating to Trade Regulation and Practice.

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

**SECTION 1.** Section 480-22, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) A plea of nolo contendere and a final judgment or decree rendered pursuant to that plea in any criminal action under this chapter shall not be admissible against the defendant in any action or proceeding brought by any other party under this chapter, or by the State, county, or city and county, under section 480-14 against the defendant."

**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 18, 1981.)

## **ACT 182**

H.B. NO. 247

A Bill for an Act Relating to Intoxicating Liquor.

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

**SECTION 1.** Section 244-4, Hawaii Revised Statutes, is amended to read as follows:

**“§244-4 Tax; limitations.** Every person who sells or uses any liquor not taxable under this chapter in respect of the transaction by which such person or his vendor acquired such liquor, shall pay an excise tax which is hereby imposed, equal to twenty per cent of the wholesale price of the liquor so sold or used; provided that the tax shall be paid only once upon the same liquor; provided further that the tax shall not apply to:

- (1) Liquor held for sale by a permittee but not yet sold;
- (2) Liquor sold by one permittee to another permittee;

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

- (3) Liquor which is neither delivered in the State nor to be used in the State, or which under the Constitution and laws of the United States cannot be legally subjected to the tax imposed by this chapter so long as and to the extent to which the State is without power to impose the tax;
- (4) Liquor sold for sacramental purposes or the use of liquor for sacramental purposes, or any liquor imported pursuant to section 281-33;
- (5) Alcohol sold pursuant to section 281-37 to a person holding a purchase permit or prescription therefor, or any sale or use of alcohol, so purchased, for other than beverage purposes;
- (6) Okolehao manufactured in the State for the period May 17, 1971 to June 30, 1981;
- (7) Any fruit wine manufactured in the State from products grown in the State for the period May 17, 1976 to June 30, 1981; or
- (8) Rum manufactured in the State for the period May 17, 1981 to June 30, 1986."

SECTION 2. Section 281-3, Hawaii Revised Statutes, is amended to read as follows:

**"§281-3 Illegal manufacture, importation, or sale of liquor.** It shall be unlawful for any person not having a valid license to manufacture, sell, offer, expose, or keep for sale any liquor except as otherwise provided in this chapter; provided that the head of any family may produce for family use and not for sale an amount of wine not exceeding two hundred gallons a year, and an amount of beer not exceeding one hundred gallons a year.

It shall also be unlawful for any person, not having a valid wholesale license or a valid manufacturer's (including rectifier's) license, to import any liquor from without the State, except as otherwise provided in this chapter. Liquor imported into this State shall come to rest at the warehouse of the wholesaler importing the liquor and shall be unloaded into such warehouse before further sale by such wholesaler.

It shall also be unlawful for any person to label, designate, or sell any liquor using the word "Hawaii", "Hawaiian", or "Aloha State" unless such liquor is wholly or partially manufactured in the State.

A license shall constitute authority for the licensee to sell only the liquor thereby authorized to be sold by him."

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

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

(Approved June 18, 1981.)

A Bill for an Act Relating to Horizontal Property Regimes.

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

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

SECTION 1. Section 514A-82, Hawaii Revised Statutes, is amended to read as follows:

**"§514A-82 Contents of bylaws.** The bylaws shall provide for at least the following:

- (1) The election of a board of directors, the number of persons constituting the same, and that the terms of at least one-third of the directors shall expire annually; the powers and duties of the board; the compensation, if any, of the directors; the method of removal from office of directors; and 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; and what percentage is, consistent with this chapter, necessary to adopt decisions binding on all apartment owners.
- (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 from the apartment owners their share of the common expenses.
- (8) Designation and removal of personnel necessary for the maintenance, repair, and replacement of the common elements.
- (9) Method of adopting and of amending administrative rules and regulations governing the details of the operation and use of the common elements.
- (10) Such 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) Seventy-five per cent of the apartment owners may at any time modify or amend the bylaws, but each one of the particulars set forth in this section shall always be embodied in the bylaws.
- (12) 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.

- (13) 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.
- (14) A director shall not vote or cast any proxy vote at any board meeting on any issue in which he has a conflict of interest.
- (15) No resident manager of the condominium shall serve on the board of directors.
- (16) The board of directors shall meet at least once a year.
- (17) 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 such meeting, and shall contain at least: the date and time of such meeting, the place of such meeting, the items on the agenda for such meeting, and a standard proxy form authorized by the association, if any.
- (18) A proxy form which accompanies a notice of meeting shall be valid for the meeting to which the notice pertains and its adjournment only and may designate any person as proxy and may be limited as the apartment owner desires and indicates.
- (19) The resident manager or managing agent, or board of directors shall keep an accurate and current list of members of the association of apartment owners and their current addresses and the [name] names and addresses of the vendees under an agreement of sale, if any. The list shall be maintained at a place designated by the board of directors.
- (20) All association and board of directors meetings shall be conducted in accordance with Roberts Rules of Order, or other accepted rules for the conduct of meetings.
- (21) The members of the association of apartment owners may require, by vote at the annual meeting, a yearly audit of the association books by a certified public accountant.
- (22) 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.
- (23) Notice of the annual board meeting shall be given in a reasonable manner at least fourteen days, if practicable, prior to such meeting.
- (24) That the minutes of meetings of the board of directors, and association of apartment owners, and the association's financial statements shall be available for examination by apartment owners at convenient hours at a place designated by the board[.] and shall be mailed to any owner upon the owner's request."

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

SECTION 3. This Act shall take effect on September 1, 1981.

(Approved June 18, 1981.)

A Bill for an Act Relating to Insurance of Household Furniture and Furnishings in Dwelling Houses.

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

SECTION 1. Section 431-632, Hawaii Revised Statutes, is amended to read as follows:

**“§431-632 Exceptions.** Section 431-631 does not apply to:

- (1) Insurance on buildings and building service equipment pertaining thereto and part thereof, and machinery, tools, and other equipment appurtenant to or used in connection with any trade, business, manufacturing process, governmental operations, or public and private institutions, [except] and household furniture and furnishings in dwelling houses, with respect to the difference between the actual value of the insured property at the time any loss or damage occurs and the cost of repairing, rebuilding, or replacing with new materials of like size, kind, and quality, such property as has been damaged or destroyed by fire or other peril insured against.
- (2) Insurance against the cost of demolition or reconstruction, or both, of any portion of the insured premises which has not suffered damage, and the additional cost of repair or reconstruction, or both, of portions of the insured premises which have suffered damage, necessary to comply with applicable laws or ordinances.”

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 18, 1981.)

A Bill for an Act Relating to Communicable Diseases.

*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 deleting the terms “leprosy” and “leprosy patient”, substituting in lieu thereof the term “Hansen’s disease” and “Hansen’s disease sufferer”.

SECTION 2. Chapter 326, Hawaii Revised Statutes, is amended by amending the title to read as follows:

**“CHAPTER 326  
HANSEN’S DISEASE”**

SECTION 3. Section 326-1, Hawaii Revised Statutes, is amended to read as follows:

**“§326-1 Establishment of hospitals, etc; treatment and care of persons affected with Hansen’s disease.** The department of health, subject to the approval of

the governor, shall establish hospitals, settlements, and places as it deems necessary for the care and treatment of persons affected with Hansen's disease.

At every such hospital, settlement, and place there shall be exercised every reasonable effort to effect a cure of such persons, and all such persons shall be cared for as well as circumstances will permit, and given such liberties as may be deemed compatible with public safety and in the light of advances in medical science and in accordance with accepted practices elsewhere. Every patient shall be encouraged to take complete treatment so that prompt recovery can be attained and shall be discharged as soon as possible. The treatment shall be compulsory only in those cases where, in the opinion of the department, such treatment is necessary to save life or prevent obvious physical suffering, and the department may take such measures as may be necessary to enforce this section."

SECTION 4. Section 326-2, Hawaii Revised Statutes, is amended to read as follows:

**"§326-2 Equal treatment of patients.** Every Hansen's disease sufferer at Hale Mohalu and Kalaupapa shall be accorded as nearly equal care and privileges as is practicable under the different operating conditions of the two institutions."

SECTION 5. Section 326-3, Hawaii Revised Statutes, is amended to read as follows:

**"§326-3 Care in other hospitals, homes, etc.** Notwithstanding any of the provisions of this chapter or any other chapter relating to this subject matter, the department of health may make arrangements for the care and treatment of any person within the jurisdiction at any hospital, nursing home, or convalescent home in the State, either public or private, and bear all expenses of the hospitalization and treatment and any other necessary expenses in the same manner as though the person were confined at any hospital, settlement, or place for the care and treatment of persons affected with Hansen's disease established under section 326-1. Any moneys at any time appropriated for the care of patients or maintenance of the hospital, settlement, or place established under section 326-1 may be used by the department to pay any hospital, nursing home, or convalescent home with which the department has made such arrangements. When such arrangements have been made the other provisions of this chapter relating to the examination, care, treatment, and discharge of patients shall be applicable to the institution and patient involved in the same manner as they apply to the hospital, settlement, or place established under section 326-1."

SECTION 6. Section 326-5, Hawaii Revised Statutes, is amended to read as follows:

**"§326-5 Appropriations, how spent.** All moneys at any time appropriated for the upkeep, support, maintenance, and conduct of any hospital, settlement, or receiving station for persons affected with Hansen's disease, shall be expended under the supervision and authority and by the order of the department of health, upon vouchers signed by the director of health."

SECTION 7. Section 326-6, Hawaii Revised Statutes, is amended to read as follows:

**"§326-6 Treatment and care of pregnant mothers affected with Hansen's disease; disposition of children.** Any woman patient at any place maintained for the treatment or care of persons affected with Hansen's disease who becomes pregnant shall be immediately subjected to necessary examination and care as the department of health may prescribe, and within a reasonable time of the possible delivery of child, the mother shall be placed under hospital care and attention as may be necessary to assure a healthy birth. Any child so born shall be immediately cared for as will reduce the possibility of contracting Hansen's disease."

SECTION 8. Section 326-11, Hawaii Revised Statutes, is amended to read as follows:

**"§326-11 Voluntary transfer to and from Kalaupapa.** Any person undergoing treatment and receiving care for Hansen's disease at Hale Mohalu on June 30, 1969 may be transferred to Kalaupapa Settlement for care and treatment if he desires. Any person who may undergo treatment and receive care for Hansen's disease at Hale Mohalu after June 30, 1969 may apply to the director of health for transfer to Kalaupapa Settlement.

Any person undergoing treatment and receiving care for Hansen's disease at Kalaupapa Settlement may be transferred to Hale Mohalu for care and treatment if he desires. A person transferred may be retransferred to Kalaupapa Settlement if he desires."

SECTION 9. Section 326-20, Hawaii Revised Statutes, is amended to read as follows:

**"§326-20 Permits to treat.** The department of health may permit any person to engage in the treatment of persons affected with Hansen's disease or of persons supposed to have Hansen's disease. The permits shall be under such conditions and regulations as the department shall prescribe, and be revocable at the pleasure of the department."

SECTION 10. Section 326-22, Hawaii Revised Statutes, is amended to read as follows:

**"§326-22 Labor by patients; employment of released and discharged patients.** All outside labor, including yard work, may be performed by patients at any hospital, settlement, or place for the care and treatment of persons suffering from Hansen's disease, as far as patient labor is available, and all the patient laborers shall be compensated in accordance with the rates established in section 326-21.

When there are vacancies in positions, classified under chapters 76 and 77, which are of such nature that the health of the public or of other nonpatient staff members will not be in danger by their being filled by individuals living with or associating closely with active patients, at any hospital, settlement, or place exclusively for the care and treatment of persons suffering from Hansen's disease, employment preference shall be given to temporary release patients and discharged patients from any such hospital, settlement, or place; provided that the persons so hired shall be otherwise qualified under chapters 76 and 77.

Discharged patients who have been employed prior to December 30, 1960, under chapters 76 and 77 in accordance with the second paragraph of this section shall be eligible to receive the same rights and privileges as those enjoyed by

temporary release patients employed under the second paragraph of this section."

SECTION 11. Section 326-23, Hawaii Revised Statutes, is amended to read as follows:

**"§326-23 Pensions for patient employees at hospitals, etc.** All patient employees or patient laborers at every hospital, settlement, and place maintained for the treatment and care of persons affected with Hansen's disease shall be entitled, upon retirement after twenty years or more service with the department of health, at the hospital, settlement, or place, to a pension, payable monthly, in an amount which shall be equal to sixty-six and two-thirds percent of the wage or salary which the patient was receiving at the time of retirement, or to a pension, payable monthly, in an amount which shall be equal to sixty-six and two-thirds percent of the average wage or salary which the patient employee was receiving during his last twelve months of employment at the hospital, settlement or place, whichever is higher.

Patient employees may use service with any state department or agency not exceeding five years which has not been credited under the state retirement system in lieu of service with a hospital, settlement, and place maintained for the treatment and care of persons affected with Hansen's disease to satisfy the requirements of the preceding paragraph; provided that the service shall be authenticated by official records of the department where service was performed.

When work is available at Kalaupapa Settlement which may be fulfilled by patient residents of the settlement under section 326-21 and there are no applicants for such positions from among the eligible patients, pensioned patients who are in residence at Kalaupapa Settlement may be reemployed, not to exceed nineteen hours per week, without relinquishing the pension granted to them under this section. Furthermore, notwithstanding any provision of this chapter or of any other chapter relating to this subject matter, such reemployment shall not result in suspension or termination of payment of the pension granted originally or serve to increase, decrease, or alter said pension in any way."

SECTION 12. Section 326-24, Hawaii Revised Statutes, is amended to read as follows:

**"§326-24 Rules and regulations.** The director of health may adopt rules and regulations pursuant to chapter 91 as he may consider necessary for the conduct of all matters pertaining to Hansen's disease, the treatment thereof, the care, custody, and control of all persons affected with Hansen's disease, and the full and complete governance of the county of Kalawao, except as limited by this chapter."

SECTION 13. Section 326-26, Hawaii Revised Statutes, is amended to read as follows:

**"§326-26 Who allowed at settlement.** No person, not having Hansen's disease, shall be allowed to visit or remain upon any land, place, or inclosure set apart by the department of health for the isolation and confinement of persons affected with leprosy, without the written permission of the director of health, or some officer authorized thereto by the department, under any circumstances whatever, and any person found upon such land, place, or inclosure without a written permission shall be fined not less than \$10 nor more than \$100 for such offense; provided that any patient resident of Kalaupapa desiring to remain at the settlement shall be permitted

## ACT 185

to do so for as long as he may choose, regardless of whether or not he has been successfully treated."

SECTION 14. Section 326-29, Hawaii Revised Statutes, is amended to read as follows:

**"§326-29 Fishing laws exemption; Kalaupapa.** Notwithstanding any provision of law to the contrary, state laws on fishing shall not be applicable to Hansen's disease patients of Kalaupapa settlement, provided the patients engage in fishing along the shorelines and in waters immediately adjacent to the county of Kalawao.

No fish or other marine products obtained by patients may be sold outside of the county of Kalawao.

The department of health shall adopt rules and regulations to control all fishing and acquisition of marine products by Hansen's disease patients."

SECTION 15. Section 326-30, Hawaii Revised Statutes, is amended to read as follows:

**"§326-30 Making or taking or pictures without permission prohibited.** Except for professional purposes, no person, other than members of the staff, shall take photographs of any patient confined at any hospital, settlement, or place for the care and treatment of persons affected with Hansen's disease, without the written permission of the patient."

SECTION 16. Section 326-34, Hawaii Revised Statutes is amended to read as follows:

**"§326-34 County of Kalawao governed by department of health.** The county of Kalawao shall be under the jurisdiction and control of the department of health and be governed by the laws, 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 17. Section 326-36, Hawaii Revised Statutes, is amended to read as follows:

**"§326-36 Sheriff, salary.** The salary of the sheriff shall be fixed and paid by the department of health out of the appropriation allowed by the legislature for the care and treatment of persons affected with Hansen's disease."

SECTION 18. Section 326-38, Hawaii Revised Statutes, is amended to read as follows:

**"§326-38 Sheriff, powers.** The sheriff may appoint and dismiss and reappoint as many policemen as may be authorized by the department of health for the county who, for the services rendered as policemen, shall receive pay as the department determines and which pay shall be taken out of and from the appropriation made by the legislature for the care and treatment of persons affected with Hansen's disease. The sheriff shall have other powers and duties within the county of Kalawao and appropriate thereto as are prescribed by law for the chiefs of police or police officers of the several counties respectively."

SECTION 19. Section 326-40, Hawaii Revised Statutes, is amended to read as follows:

**"§326-40 Kalaupapa; policy on residency.** The legislature finds that Hawaii's Hansen's disease victims have in many ways symbolized the plight of those afflicted with this disease throughout the world. Their sufferings and social deprivations helped eventually to bring the story of the disease and an understanding of its health ravages to people everywhere. Those patients who settled in Kalaupapa remain a living memorial to a long history of tragic separation, readjustment, and endurance.

It is the policy of the State that the patient residents of Kalaupapa shall be accorded adequate health care and other services for the remainder of their lives. Furthermore, it is the policy of the State that any patient resident of Kalaupapa desiring to remain at the settlement shall be permitted to do so for as long as he may choose, regardless of whether or not he has been successfully treated."

SECTION 20. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 21. This Act shall take effect upon its approval.

(Approved June 18, 1981.)

ACT 186

H.B. NO. 549

A Bill for an Act Relating to Arrest by Police Officers Without Warrant.

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

SECTION 1. Section 803-5, Hawaii Revised Statutes, is amended to read as follows:

**"§803-5 By police officer without warrant.** (a) A police officer or other officer of justice may, without warrant, arrest and detain for examination such persons as may be found under such circumstances as to justify probable cause to believe that they have committed any offense, whether in the officer's presence or otherwise.

(b) For purposes of this section, a police officer has probable cause to make an arrest when the facts and circumstances within the officer's knowledge and of which the officer has reasonably trustworthy information are sufficient in themselves to warrant a person of reasonable caution in the belief that a crime has been or is being committed."

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 18, 1981.)

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 188

### ACT 187

H.B. NO. 635

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

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

SECTION 1. Section 103-22.1, Hawaii Revised Statutes, is amended to read as follows:

**"§103-22.1 Services of the handicapped.** When a governmental agency contracts for or purchases services, five per cent preference shall be given to services to be performed by nonprofit corporations or public agencies operating sheltered workshops servicing the handicapped in conformance with criteria established by the department of labor and industrial relations pursuant to chapter 91; provided that service contracts awarded under this section shall be exempt from the wages provision of section 103-55. The state comptroller shall adopt rules under chapter 91 to establish the preference for the services to be performed by nonprofit corporations or public agencies operating sheltered workshops consistent with this section."

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 18, 1981.)

### ACT 188

H.B. NO. 722

A Bill for an Act Relating to the Major Disaster Fund.

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

SECTION 1. Section 127-11, Hawaii Revised Statutes, is amended to read:

**"§127-11 Major disaster fund.** The director shall submit requests to the legislature to appropriate from the general revenues of the State sufficient moneys as may be necessary for expenditure by or under the direction of the governor for immediate relief in the event of the occurrence of any major disaster in any part of the State; provided that the governor may not expend in excess of [\$500,000] \$750,000 for immediate relief of any single major disaster. In expending the moneys, the governor may allot any portion thereof to any agency, office, or employee, federal, state, or county, for the more speedy and efficient relief of the conditions created by the disasters. The governor may determine whether a major disaster contemplated by this section has occurred, and any determination shall be conclusive."

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 18, 1981.)

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 189

H.B. NO. 749

## A Bill for an Act Relating to Employment Security.

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

SECTION 1. Section 383-66, Hawaii Revised Statutes, is amended to read:

**"§383-66 Contribution rates, how determined.** The department of labor and industrial relations shall for the nine-month period April 1, 1941 to December 31, 1941 and for each calendar year thereafter, except as otherwise provided in this part, classify employers in accordance with their actual experience in the payment of contributions and with respect to benefits charged against their accounts with a view to fixing such contribution rates as will reflect such experience. The department shall determine the contribution rate of each employer in accordance with the following requirements:

- (1) The standard rate of contributions payable by each employer shall be three per cent.
- (2) No employer's rate for the calendar year 1942 and for any calendar year thereafter, shall be other than the maximum rate unless and until his account has been chargeable with benefits throughout the thirty-six consecutive calendar month period ending on December 31 of the preceding calendar year, except that, for the calendar year 1956 and for each calendar year thereafter, an employer who has not been subject to the law for a sufficient period to meet this requirement may qualify for a rate other than the maximum rate if his account has been chargeable throughout a lesser period but in no event less than the twelve consecutive calendar month period ending on December 31 of the preceding calendar year.
- (3) No employer's rate for the calendar year 1965 and for any calendar year thereafter, or remaining calendar quarter thereof, as the case may be, through December 31, 1976 shall be less than the standard rate unless the total assets of the fund as of the end of the previous calendar year, or calendar quarter, were at least \$15,000,000; provided that each employer's rate for any calendar year or any portion thereof, as determined by other applicable provisions of this part shall be increased by one-half per cent, if the total assets of the fund as of the end of the previous calendar year or calendar quarter were at least \$15,000,000 but less than \$20,000,000, but in no event shall an employer's rate exceed the standard rate. Any amount credited to this State under section 903 of the Social Security Act, as amended, which has been appropriated for expenses of administration whether or not withdrawn from the trust fund shall be excluded from the fund for the purposes of this paragraph. Any advance that may be made to this State under section 1201 of the Social Security Act, whether or not withdrawn from this trust fund, shall be excluded from the fund for the purposes of this paragraph. No employer's rate shall be reduced in any amount which is not allowable as an additional credit, against the tax levied by the federal Unemployment Tax Act pursuant to section 3302(b) of the federal Internal Revenue Code or pursuant to any other federal statute, successor to section 3302(b), which provides for the additional

- credit now provided for in section 3302(b).
- (4) If, when any such classification of employers is to be made (which may be after the commencement of the period for which the classification is to be made), the department finds that any employer has failed to file any report required in connection therewith or has filed a report which the department finds incorrect or insufficient, the department shall notify the employer thereof by registered mail addressed to his last known address. Unless the employer files the report or a corrected or sufficient report, as the case may be, within fifteen days after the mailing of the notice, the maximum rate of contributions shall be payable by such employer for the period for which the contribution rate is to be fixed.
- (5) For the purpose of sections 383-63 to 383-69, if on or after January 1, 1940, any employing unit in any manner succeeds to or acquires the organization, trade, or business, or substantially all the assets thereof (whether or not the successor or acquiring unit was an "employing unit", as that term is defined in section 383-1(8) prior to the acquisition), of another which at the time of such acquisition was an employer subject to this chapter, and such predecessor employer has executed and filed with the department on a form approved by the department a waiver relinquishing all rights to his prior experience record with respect to his separate account, actual contribution payment, and benefit chargeability experience, annual payrolls and other data for the purpose of obtaining a reduced rate, and requesting the department to permit such experience record to inure to the benefit of the successor employing unit upon request of the successor employing unit, the experience record for rate computation purposes of the predecessor shall thereupon be deemed the experience record of the successor and the experience record shall be transferred by the department to the successor employing unit and shall become the separate account of the employing unit as of the date of the acquisition and benefits thereafter chargeable to the employer on account of employment prior to the date of the acquisition shall be charged to such separate account. The successor employing unit, unless already an employer subject to this chapter, shall be subject from the date of acquisition to the rate of contribution of the predecessor or of two or more predecessors if they have the same contribution rate, provided the waiver or waivers required herein are filed with the department before sixty days after the date of acquisition. In case there are two or more predecessors having different contribution rates, the successor shall be subject to [a contribution rate of three per cent] the maximum rate until the next determination of rates under sections 383-63 to 383-69, at which time the experience records of the predecessors and successor shall be combined and shall be deemed to be the experience record of a single employing unit and the successor's rate shall thereupon be determined upon the basis of such combined experience. If the successor at the time of the transfer is an employer subject to this chapter, the rate of contribution to which he is then subject shall remain the same until the next determination of rates under sections 383-63 to 383-69, at which time the experience records of the predecessor

and successor shall be combined and shall be deemed to be the experience record of a single employing unit and the successor's rate shall thereupon be determined upon the basis of such combined experience. For the purpose of determination of rates under sections 383-63 to 383-69 of all successor employing units, waivers as required herein, if not previously filed as hereinabove provided, shall be filed with the department not later than March 1 of the year for which the rate is determined; provided, that no such waiver shall be accepted by the department for filing unless the employing unit executing the waiver has filed all reports and paid all contributions required of it by this chapter.

- (6) The department may prescribe regulations for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such an account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account. The regulations shall be consistent with the federal requirements for additional credit allowance in section 3303 of the federal Internal Revenue Code and consistent with this chapter.
- (7) Whenever there is an amendment to this chapter which, if immediately effective, would change an employer's rate of contributions, the rate of the employer shall be changed in accordance with the amendment and the new rate shall apply for the remainder of the calendar year beginning with the calendar quarter immediately following the effective date of the amendment providing for such change unless otherwise provided by the amendment.
- (8) For the purposes of this section "contribution rate" shall mean the basic contribution rate as defined in section 383-68 when applied to calendar year 1978 or any calendar year thereafter."

**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 18, 1981.)

## ACT 190

H.B. NO. 820

A Bill for an Act Relating to Pedestrian Control Signals.

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

**SECTION 1.** Section 291C-32, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

"(a) Whenever traffic is controlled by traffic-control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red, and yellow shall be used, except for special pedestrian signals carrying a word or symbol legend, and the lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

- (1) Green indication:
  - (A) Vehicular traffic facing a circular green signal may proceed straight through or turn right or left unless a sign at the place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right of way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.
  - (B) Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right of way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.
  - (C) Unless otherwise directed by a pedestrian-control signal, as provided in section 291C-33, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.
- (2) Steady yellow indication:
  - (A) Vehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection.
  - (B) Pedestrians facing a steady yellow signal, unless otherwise directed by a pedestrian-control signal as provided in section 291C-33, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.
- (3) Steady red indication:
  - (A) Vehicular traffic facing a steady red signal alone shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until an indication to proceed is shown, except as provided in the next succeeding paragraphs.
  - (B) The driver of the vehicle which is stopped in obedience to a steady red indication may make a right turn but shall yield the right-of-way to pedestrians and other traffic proceeding as directed by the signal at said intersection, except that counties by ordinance may prohibit any such right turn against a steady red indication, which ordinance shall be effective when a sign is erected at such intersection giving notice thereof.
  - (C) The driver of a vehicle on a one-way street which intersects another one-way street on which traffic moves to the left shall stop in obedience to a steady red indication but may then make a left turn into said one-way street, but shall yield right-of-way to pedestrians, proceeding as directed by the signal at said intersection except that

counties by ordinance may prohibit any such left turn as above described which ordinance shall be effective when a sign is erected at such intersection giving notice thereof.

- (D) Unless otherwise directed by a pedestrian-control signal as provided in section 291C-33, pedestrians facing a steady red signal alone shall not enter the roadway."

SECTION 2. Section 291C-33, Hawaii Revised Statutes, is amended to read:

**"§291C-33 Pedestrian-control signals.** Whenever special pedestrian-control signals, exhibiting the words "Walk" or "Don't Walk" or the symbols of a walking person or an upraised palm are in place such signals shall indicate as follows:

- (1) **Walk or Walking Person.** Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right of way by the drivers of all vehicles.
- (2) **Don't Walk or Upraised Palm.** No pedestrian shall start to cross the roadway in the direction of such signal, whether flashing or steady, but any pedestrian who has partially completed his crossing on the Walk or Walking Person signal shall complete the crossing to a sidewalk or safety island while the Don't Walk or upraised palm signal is showing."

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

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

(Approved June 18, 1981.)

ACT 191

H.B. NO. 824

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 304-4, Hawaii Revised Statutes, is amended to read:

**"§304-4 Powers of regents; official name.** The board of regents shall have management and control of the general affairs, and exclusive jurisdiction over the internal organization and management, of the university. It may appoint a treasurer and such other officers as it deems necessary. It may authorize any officer, elected or appointed by it, to approve and sign on its behalf any voucher or other document which the board may approve and sign. It may purchase or otherwise acquire lands, buildings, appliances, and other property for the purposes of the university and expend such sums of money as may be from time to time placed at the disposal of the university from whatever source. All lands, buildings, appliances, and other property so purchased or acquired shall be and remain the property of the university to be used in perpetuity for the benefit of the university.

The board may charge a resident tuition fee for regular courses of instruction at any University of Hawaii campus, including any community college; provided

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

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that the tuition fee for nonresident students, both undergraduate and graduate, shall be not less than two times the tuition fee for resident students, but in no event less than two times the undergraduate tuition fee for resident students at the Manoa Campus. The board may also charge other fees for special programs of instruction, as well as laboratory fees or course fees or fees for student activities, each of which shall be the same for resident and nonresident students. The board may charge other fees for summer session or evening courses, including differential fees for nonresident students. The nonresident tuition differential shall not be applicable to nonresident students who were enrolled at the university during the fall or spring semester of the 1968-1969 school year, as long as the nonresident students continue to be enrolled at the university as regular students during the next and subsequent academic years, except where such continued enrollment is prevented for good cause as may be determined by the board of regents, nor to nonresident students who are residents of a state or foreign country which permits Hawaii residents to pay resident tuition fees while attending public institutions of higher learning in such state or foreign country, nor to nonresidents, United States military personnel stationed in Hawaii on active duty and their authorized dependents during the period such personnel are stationed in the State, nor to students from any district, commonwealth, territory, or insular jurisdiction, state, or nation which does not provide public institutions of higher learning, nor to employees of the university, their spouses and dependents. The board may waive entirely or reduce the tuition fee or any of the other fees for any students, resident or nonresident, who are well qualified or in need of financial assistance, not to exceed five per cent of the total full-time enrollment of the previous fall semester for each campus in the system. The board may waive entirely or reduce the tuition fee or any of the other fees for graduate teaching and research assistants. The board may enter into agreements with government and university officials of any other state or foreign country to provide for reciprocal waiver of the nonresident tuition differential.

The board shall adopt the necessary rules and regulations defining residence for tuition purposes herein; provided that the basic rule shall be that adult and minor students are resident students if the adult students, or in the case of minor students, their parents or guardians, have been bona fide residents of this State for at least twelve consecutive months next preceding their first registration at the university.

The official name of the board shall be Board of Regents, University of Hawaii, and the board shall adopt and use a common seal by which all official acts shall be authenticated."

SECTION 2. Section 304-15, Hawaii Revised Statutes, is amended to read:

**"§ 304-15 Scholarships.** The board of regents shall each year award scholarships to well qualified students. The scholarships shall be known as the Hawaii State scholarships and shall be awarded to qualified students who are at least half-time and in necessitous circumstances who in the judgment of the university would otherwise be unable to attend the university, college, or a community college. The number of scholarship units shall not exceed eight per cent of the university's total full-time enrollment of the previous semester. To qualify for such a scholarship, students, or in the case of minor students, their parents or guardians, must have been bona fide residents of the State for at least twelve consecutive months immediately preceding

the term for which a scholarship is desired. The board of regents may adopt the necessary rules and regulations defining bona fide resident."

SECTION 3. Section 304-17, Hawaii Revised Statutes, is amended to read:

**“§304-17 Number and allocation of financial aids.** “Financial aid” as used in this section, means the tuition waivers authorized in section 304-4 and the scholarships authorized in section 304-15. A financial aid unit shall consist of a tuition waiver or scholarship awarded for the regular academic year or a semester thereof, and providing full coverage of tuition and other fees as authorized by the board. The board shall have the power to divide a unit among two or more students or among students whose financial need will not substantiate a full unit. The total units of state financial aid in any given academic year shall not exceed thirteen per cent of the total full-time enrollment in the previous fall semester, except that the projected enrollment for each entering class of a new campus shall be calculated as part of its full-time undergraduate enrollment until such campus shall have graduated its first class. The allocation of the total number of units of financial aid shall be adjusted annually, based upon the ratio between full-time students enrolled at the baccalaureate degree granting campuses and in the community college system.

Scholarships awarded to students in college transfer programs in the community colleges shall be continued upon their transfer into baccalaureate programs provided they continue to qualify, with the scholarship then to count against the quota for the baccalaureate degree granting campus. A scholarship awarded to a student who concurrently registers and enrolls at two or more campuses of the University of Hawaii during the same semester shall be counted against the quota for the campus at which the student is considered by the university to be seeking a certificate or degree. Each Hawaii State scholarship shall be granted for a period of one academic year, and may be renewed each year for all recipients who maintain a satisfactory standard of scholarship and deportment, and who continue to demonstrate financial need. The board may re-award to a new recipient the unused portion of a Hawaii State scholarship if the original awardee has left school, or for some reason ceases to remain qualified to receive financial aid. No student shall receive state scholarship grants for a period longer than four academic years while pursuing a professional or advanced degree, bachelor's degree, associate degree, or a certificate as the case may be.”

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

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

(Approved June 18, 1981.)

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

Amended.

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

SECTION 1. Section 213, Hawaiian Homes Commission Act, 1920, is amended by amending subsection (b) to read:

"(b) There are established in the treasury of the State eight special funds, to be known respectively as the Hawaiian home development fund, the Hawaiian home administration account, the Hawaiian loan guarantee fund, the Hawaiian loan interest fund, the borrowed money fund, the Hawaiian home trust fund, the Hawaiian home education fund, and the native Hawaiian rehabilitation fund.

- (1) Hawaiian home development fund. Moneys transferred to this fund shall be available with the prior written approval of the governor for offsite improvements and development necessary to serve present and future occupants of Hawaiian home lands; for improvements, additions, and repairs to all assets owned or leased by the department excluding structures or improvements that the department is obligated to acquire under section 209 of this Act; for engineering, architectural, and planning services to maintain and develop properties; for such consultant services as may be contracted for under this Act; for purchase or lease of necessary equipment; for acquisition or lease of real property and interest therein; and for improvements constructed for the benefit of beneficiaries of this Act and not otherwise permitted in the various loan funds, the administration account, or the operating fund.
- (2) Hawaiian home administration account. The entire receipts derived from any leasing of the available lands defined in section 204 of this Act shall be deposited into this account. The moneys in this account shall be expended by the department for salaries and all other administration expenses of the department in conformity with general law applicable to all departments of the State, and no sums shall be expended for structures and other permanent improvements. This account shall be subject to the following conditions and requirements:
  - (A) The department shall, when required by the governor but not later than November 15 preceding each regular session of the legislature, submit to the state director of finance its budget estimates of expenditures for the next fiscal period in the manner required by general law.
  - (B) The department's budget as approved by the governor shall be included in the governor's budget report and shall be transmitted to the legislature for its approval.
  - (C) Upon legislative approval of a budget, the amount appropriated shall be made available to the department. If no budget is approved by the legislature prior to its adjournment, sums accruing to this account shall not be expended for any other purpose but shall remain available for future use. Any amount in this account which is in excess of the amount approved by the legislature or made available for the fiscal period may be transferred to the Hawaiian home development fund.

- (3) The Hawaiian loan guarantee fund. There may be created a fund to support the guarantee of repayment of loans made by government agencies or private lending institutions to those holding leases or licenses issued under section 207 of this Act. The department's guarantee of repayment shall be adequate security for a loan under any state law prescribing the nature, amount, or form of security or requiring security upon which loans may be made.
- (4) Hawaiian loan interest fund. All interest moneys from loans or investments received by the department from any fund except the borrowed money fund, the Hawaiian home loan fund, and the native Hawaiian rehabilitation fund shall be deposited in this fund. At the end of each quarter, all moneys in this fund shall be transferred to the Hawaiian home development fund, the Hawaiian home operating fund, and any loan fund in accordance with rules adopted by the department.
- (5) Borrowed money fund. The department may borrow from government agencies or private lending institutions and deposit borrowed moneys into this fund to be used for the purpose enumerated in section 214 of this Act. Installments of principal and that part of the interest equal to the interest charged to the department by the lender paid by the lessees upon loans made to them from this fund shall be deposited into this fund.
- (6) Hawaiian home trust fund. All moneys deposited into this fund shall be available for transfers into any other fund or account authorized by the Act or for any public purpose deemed by the commission to further the purposes of the Act.
- (7) Hawaiian home education fund. Moneys transferred to this fund may be drawn upon from time to time by the department of education, with prior written approval of the governor, for such educational projects as shall be developed and directed by the department of education and department of Hawaiian home lands; provided that such projects shall be directed primarily to the educational improvement of the children of lessees, the funds to be used primarily at the preschool and elementary grade levels.
- (8) Native Hawaiian rehabilitation fund.
  - (A) Pursuant to Article XII, Section 1, of the State Constitution, thirty per cent of the state receipts, derived from lands previously cultivated as sugarcane lands under any other provision of law and from water licenses, shall be deposited into this fund. The department shall use this money solely for the rehabilitation of native Hawaiians which shall include, but not be limited to, the educational, economic, political, social, and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved and perpetuated.
  - (B) Any payment of principal, interest, or other earnings arising out of the loan or investment money from this fund shall be credited to and deposited into this fund.
  - (C) Sections 214, 215, 216, and 217 of this Act shall not apply to administration of this fund. The department is authorized to adopt rules necessary to administer and carry out the purposes of this

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fund."

SECTION 2. Section 225, Hawaiian Homes Commission Act, 1920, is amended by amending subsection (a) to read:

"(a) The department shall have the power and authority to invest and reinvest any of the moneys in any of its funds, not otherwise immediately needed for the purposes of the funds, in such bonds and securities as authorized by state law for the investment of state sinking fund moneys. Any interest or other earnings arising out of such investment shall be credited to and deposited in the Hawaiian home interest fund, except earnings derived from investments in the Hawaiian home administration account and the native Hawaiian rehabilitation fund account which shall revert to the same accounts."

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

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

(Approved June 18, 1981.)

## ACT 193

H.B. NO. 924

A Bill for an Act Relating to Vision and Hearing Screening.

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

SECTION 1. The purpose of this Act is to authorize the department of health to establish a statewide school health vision and hearing screening program for all school children. It is in the interest of the State to preserve and care for the health of Hawaii's children through regular and careful attention to the special senses through which learning takes place.

SECTION 2. Part IX of Chapter 321, Hawaii Revised Statutes, is amended to read:

### **"PART IX. VISION AND HEARING SCREENING AND EDUCATION**

**§321-101 Vision and hearing screening program.** (a) The department of health shall conduct, as it deems advisable, a screening program to detect vision and hearing deficiencies in school children and recommend to their parents or guardians the need for further evaluation of children who are found to have vision or hearing deficiencies, or both.

(b) The departments of health and education, in cooperation with each other, may conduct classes and lectures in sight and hearing conservation and prevention of blindness and hearing loss for teachers and public health nurses and others engaged in like work. The departments may also cooperate with public and private organizations and societies in an effort to educate the public in the importance of sight and hearing conservation."

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

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

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

(Approved June 18, 1981.)

## ACT 194

H.B. NO. 1176

A Bill for an Act Relating to Public Records.

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

SECTION 1. The purpose of this Act is to establish that motor vehicle registration information furnished by an individual, as required by section 286-41, Hawaii Revised Statutes, and maintained in county files or computers pursuant to section 286-45, Hawaii Revised Statutes, constitutes a public record within the meaning of sections 92-50 and 92-51, Hawaii Revised Statutes. Article 1, Section 6 of the Constitution of the State of Hawaii affords such public records a measure of confidentiality that must be safeguarded. In order to balance these privacy rights of individuals with the right of access that occasionally inures to certain persons, specific conditions are enumerated in the revision of section 286-172, Hawaii Revised Statutes, which henceforth governs such rights of access.

SECTION 2. Section 286-172, Hawaii Revised Statutes, is amended to read as follows:

**“§286-172 Furnishing of information.** (a) Subject to authorization granted by the chief justice with respect to the traffic records of the violations bureaus of the district courts of the circuit courts, the director of transportation shall furnish:

- (1) Information contained in the statewide traffic records system to any person in response to a request from a state, a political subdivision of a state, or a federal department or agency, or any other authorized person pursuant to rules and regulations adopted by the director of transportation under chapter 91.
- (2) Motor vehicle registration information contained in the statewide traffic records system to any person under subsection (a)(1), provided that:
  - (A) Such person has a legitimate reason, as determined by the director, as provided under the rules adopted by the director under (1) above, to obtain the information for verification of vehicle ownership, traffic safety programs, or for research or statistical reports.
  - (B) Such person is required or authorized by law to give written notice by mail to owners of vehicles.
- (b) Any person requesting motor vehicle registration information under subsection (a)(2) shall file an affidavit with the director stating the reasons for obtaining the information and making assurances that the information will be used only for

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

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such reasons, that individual identities will be properly protected, and that the information will not be used to compile a mailing list of individuals for the purposes of any commercial solicitation, or the collection of delinquent accounts or any other purpose not allowed or provided for by the rules and regulations.

(c) If any person qualifying to receive information under subsection (a)(2) requests the entire file of the motor vehicle registration information contained in the statewide traffic records system, the director shall provide the information only upon entering into a written agreement to provide the information for a fee as set by the director. In addition to such terms and conditions that the director deems advisable, the agreement shall incorporate the assurances required in the affidavit provided for in subsection (b) of this section and shall require the person receiving the information to file with the director a corporate surety bond in favor of the State in the penal sum of \$25,000, conditioned upon the full and faithful compliance of the person receiving the information with the terms and conditions of the agreement."

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

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

(Approved June 18, 1981.)

## ACT 195

H.B. NO. 1255

A Bill for an Act Relating to Election Registration for the Office of Hawaiian Affairs.

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

SECTION 1. Section 11-15, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Any person qualified to and desiring to register as a voter for the election of members of the board of trustees of the office of Hawaiian affairs shall make and subscribe to an application in the form of an affidavit which shall state that the person is Hawaiian and which shall contain the information required under subsection (a). The affidavit shall also apply to all elections, primary, special primary, general, special general, special, or county, held in the State, under all voting systems used within the State, so far as applicable and not inconsistent with this title."

SECTION 2. Section 11-17, Hawaii Revised Statutes, is amended to read as follows:

**“§11-17 Removal from register upon failure to vote; reregistration.** The clerk shall, not later than 4:30 p.m. on the sixtieth day after every general election, remove the name of any registered voter failing to vote at the election if the voter also failed to vote at the preceding primary election with the exception of those who submit written requests for absentee ballots as provided in section 15-4. For this purpose “to vote” means the depositing of the ballot in the ballot box whether the ballot is blank

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

or later rejected for any reason. In the case of voting machines "to vote" means that the voter has activated the proper mechanism and fed the vote into the machine.

The clerk shall also remove the name of any voter registered to vote in the special election for election of members of the board of trustees of the office of Hawaiian affairs, who fails to vote at the special election if the voter also failed to vote in both the general election held in conjunction with the special election and the preceding primary election.

Any voter whose name has been removed from the register may at any time prior the closing of the register, as provided in section 11-24, have that person's name restored in the register by presenting oneself to the clerk and reregistering pursuant to section 11-15, or by making application by mail or otherwise pursuant to procedures established by the clerk. The clerk shall require satisfactory evidence to establish the identity of the applicant. The names of all such voters shall be reentered in the register."

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

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

(Approved June 18, 1981.)

## ACT 196

H.B. NO. 1357

A Bill for an Act Relating to Employment Security.

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

**SECTION 1.** Section 383-23.5, Hawaii Revised Statutes, is amended to read as follows:

**"§383-23.5 Retirement payments.** (a) For any week with respect to which an individual is receiving a pension (which shall include a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment) under a plan maintained or contributed to by a base period or chargeable employer (as determined under applicable law), the weekly benefit amount payable to such individual for such week shall be reduced (but not below zero):

- (1) By one-half the prorated weekly amount of the pension if at least half but less than one hundred per cent of the contributions to the plan were provided by such individual; or
  - (2) By the entire prorated weekly amount of the pension if paragraph (1) or paragraph (3) does not apply; or
  - (3) By no part of the pension if the entire contributions to the plan were provided by such individual, or by the individual and an employer (or any person or organization) who is not a base period or chargeable employer as determined under applicable law.
- (b) No reduction shall be made under this section by reason of the receipt of a

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

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pension if the services performed by the individual during the base period (or remuneration received for such services) for such employer did not affect the individual's eligibility for, or increase the amount of, such pension, retirement or retired pay, annuity, or similar payment. The conditions specified by this subsection shall not apply to pensions paid under the Federal Social Security Act or the Railroad Retirement Act of 1974, or the corresponding provisions of prior law. Payments made under those Acts shall be treated solely in the manner specified by subsection (a)(1), (2), and (3)."

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 18, 1981.)

## ACT 197

H.B. NO. 1583

A Bill for an Act Relating to the Department of Planning and Economic Development.

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

SECTION 1. 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 service 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;

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

- (5) Employees in the office of the governor and household employees at Washington Place and eight employees in the office of the lieutenant governor;
- (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 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 one law clerk for each judge of the intermediate appellate court and of the circuit court (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); 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) Assistant 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 non-certificated 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, [kokua,] 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 social services and housing either in charge of welfare or such other functions within the department as may be assigned by the director of social 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 planning and economic development to perform the duties assigned by the director of planning and economic development and approved by the governor; 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
  - (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. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved June 18, 1981.)

## ACT 198

H.B. NO. 1584

A Bill for an Act Relating to the National Guard.

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

SECTION 1. Section 121-40, Hawaii Revised Statutes, is amended to read as follows:

**“§121-40 Pay of enlisted men while on active duty.** Enlisted personnel of the army and air national guard while on active duty in the service of the State, except during periods of annual field training or year-round field training, shall receive the same pay and allowances as enlisted personnel of similar rank in the United States army and air force, respectively; provided[,] that the aggregate of the pay and allowances, computed on a daily basis, shall in no event be less than the amount equal to [eight] ten times the hourly wage specified in section 387-2.”

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 18, 1981.)

## ACT 199

H.B. NO. 1590

A Bill for an Act Relating to the Environment.

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

SECTION 1. The purpose of this Act is to help preserve and protect our environment, especially with respect to submerged lands and lands beneath tidal waters, by requiring prior legislative authorization for the leasing and development of such lands.

SECTION 2. Section 171-53, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The board, with the prior approval of the governor and the prior authorization of the legislature by concurrent resolution, may lease submerged lands, and lands beneath tidal waters which it deems are suitable for reclamation, under the terms, conditions, and restrictions provided in this chapter. The lease shall provide that the lands shall be reclaimed at the expense of the lessee. Title to the reclaimed lands shall remain in the State.”

SECTION 3. Section 17160† Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Leasehold projects. Notwithstanding anything in this chapter to the contrary, the board may, by negotiation and without recourse to public auction, with the prior approval of the governor and authorization of the legislature by concurrent resolution approving a development project, (1) lease public lands, including submerged lands to be reclaimed at the developer's or developers' expense, to a

†Probably should read “171-60”.

## ACT 200

private developer or developers, or (2) enter into a development agreement with a private developer or developers, for development and subdivision of such public lands as a leasehold project for agricultural, industrial, single-family or multiple-family residential, commercial, business or hotel and resort uses, as provided in this subsection."

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

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

(Approved June 18, 1981.)

## ACT 200

H.B. NO. 1679

A Bill for an Act Relating to School Health Services.

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

**SECTION 1.** Section 321-242, Hawaii Revised Statutes, is amended to read as follows:

**"§321-242 Department of health; implementation.** The department of health shall implement this program with the present health services now provided to those schools under the pilot project established under Act 130, Session Laws of Hawaii 1970, to each public school, and shall further provide the necessary number of health aides in order to service each public school. The department of health may provide health related screening services at each public school.

School health aides may assist the student by administering oral and topical medication, provided that:

- (1) If the student receiving the medication is a minor, a parent requests such administration of medication;
- (2) The medication has been prescribed by a physician;
- (3) The administration of such medication is with the approval of the department of health; and
- (4) The administration of the medication is necessary for the health of the student and for his attendance at school."

**SECTION 2.** Section 457-13, Hawaii Revised Statutes, is amended to read as follows:

**"§457-13 Exceptions.** This chapter does not prohibit:

- (1) The furnishing of nursing assistance in an emergency.
- (2) The practice of nursing which is incidental to their program of study by students enrolled in nursing education programs accredited by the board.
- (3) The practice of nursing by permit pending the results of licensing examination by graduates of schools whose accreditation is recognized by the board; providing the candidates enter the first licensing examination scheduled by the board following graduation.

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

- (4) The practice of any legally qualified nurse of another state who is employed by the United States or any bureau, division, or agency thereof, while in the discharge of his or her official duties.
- (5) The practice of nursing in connection with healing by prayer or spiritual means alone in accordance with the tenets and practice of any well recognized church or religious denomination, provided that no person practicing such nursing holds himself out to be a registered nurse or a licensed practical nurse.
- (6) The administration of oral and topical medication by school health aides as provided in section 321-242."

SECTION 3. Section 321-244, Hawaii Revised Statutes, is repealed.

SECTION 4. 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- Rules.** The director of health shall adopt rules pursuant to chapter 91 necessary for the purposes of this part."

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

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

(Approved June 18, 1981.)

A Bill for an Act Relating to the Employee's Retirement System of the State of Hawaii.

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

SECTION 1. Section 88-122, Hawaii Revised Statutes, is amended to read:

**"§88-122 Determination of employer normal cost and accrued liability contributions.** Based on regular interest and such mortality and other tables as are adopted by the board of trustees, the actuary engaged by the board shall, on the basis of successive annual actuarial valuations, determine the employer's normal cost and accrued liability contributions for each fiscal year beginning July 1 separately for the following two groups of employees: police officers, firefighters, and corrections officers, and all other employees.

The actuarial valuations made for years ending on June 30, 1980, 1981, and 1982, shall be based on a seven per cent investment yield rate and such tables and factors as are adopted by the board of trustees for actuarial valuations of the system. The actuarial valuations made for years ending on June 30, 1983 and thereafter shall be based on a four and one-half per cent investment yield rate and such tables and factors as are adopted by the board of trustees for actuarial valuations of the system.

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

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- (1) With respect to each of the aforesaid two groups of employees, the normal cost for each year after June 30, 1976 shall be the percentage of the aggregate annual compensation of employees as of March 31 of the preceding year which, if contributed over each employee's prospective period of service and added to his prospective contributions, will be sufficient to provide for the payment of all future benefits after subtracting the sum of the unfunded accrued liability as of the beginning of the year and the assets of the pension accumulation fund as of the end of the preceding year. On each June 30 the board shall determine the allocation of the assets of the pension accumulation fund between the aforesaid two groups of employees; provided that the assets of the pension accumulation fund as of June 30, 1976 shall be allocated between the two groups in the same proportion as the aggregate annual compensation of each group as of March 31, 1976.
- (2) The total unfunded accrued liability as of July 1, 1976 shall be fixed at \$239,000,000, and shall be allocated as follows: \$32,000,000 to police officers, firefighters, and corrections officers, and \$207,000,000 to all other employees. With respect to each of the aforesaid two groups of employees, the accrued liability contribution for each<sup>†</sup> after June 30, 1976 shall be the level annual payment required to liquidate such unfunded accrued liability over the remainder of the period of fifty years beginning July 1, 1964."

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

SECTION 3. This Act, upon approval, shall take effect on July 1, 1982; provided that any provision of chapter 88, Hawaii Revised Statutes, to the contrary notwithstanding, the employee's retirement system of the State of Hawaii shall begin using the increased interest rate of seven per cent a year to compute the employer's normal and accrued liability contributions to the pension accumulation and post retirement funds for the fiscal year 1982-1983, and to determine the amount of employer appropriations to the pension accumulation fund for the fiscal year 1982-83.

(Approved June 18, 1981.)

## ACT 202

H.B. NO. 1881

A Bill for an Act Relating to Marriage.

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

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

<sup>†</sup>It appears that a word is missing at this point. In section prior to amendment, here appeared the word "year".

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

**"§572-1 Requisites of valid marriage contract.** In order to make valid the marriage contract, it shall be necessary that:

- (1) The respective parties do not stand in relation to each other of ancestor and descendant of any degree whatsoever, brother and sister of the half as well as to the whole blood, uncle and niece, aunt and nephew, whether the relationship is legitimate or illegitimate;
- (2) Each of the parties at the time of contracting the marriage is at least sixteen years of age; provided that, with the written approval of the family court of the circuit within which the minor resides, it shall be lawful for a person under the age of sixteen years, but in no event under the age of fifteen years, to marry, subject to section 572-2;
- (3) The man does not at the time have any lawful wife living and that the woman does not at the time have any lawful husband living;
- (4) Neither of the parties is impotent or physically incapable of entering into the marriage state;
- (5) Consent of neither party to the marriage has been obtained by force, duress, or fraud;
- (6) Neither of the parties is a person afflicted with any loathsome disease concealed from, and unknown to, the other party;
- (7) It shall in no case be lawful for any person to marry in the State without a license for that purpose duly obtained from the agent appointed to grant marriage licenses; and
- (8) The marriage ceremony be performed in the State by a person or society with a valid license to solemnize marriages and the man and the woman to be married and the person performing the marriage ceremony be all physically present at the same place and time for the marriage ceremony."

SECTION 2. Section 572-13, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Marriages, reported by whom. It shall be the duty of every person, legally authorized to perform the marriage ceremony, to report within three business days every marriage ceremony, performed by him, to the agent of the department of health in the district in which the marriage takes place setting forth all facts required to be stated in a standard certificate of marriage, the form and contents of which shall be prescribed by the department of health."

SECTION 3. Chapter 572, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§572- Revocation or suspension of licenses to solemnize.** Any license to solemnize marriages issued pursuant to section 572-12 may be revoked or suspended by the department of health, if the holder of the license has failed to comply with the applicable provisions of this chapter or of the rules of the department of health."

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

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 203

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

(Approved June 18, 1981.)

## ACT 203

H.B. NO. 726

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

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

SECTION 1. Section 213, Hawaiian Homes Commission Act, 1920, is amended by amending subsection (a) to read:

"(a) There are established in the treasury of the State seven revolving funds, to be known respectively as the Hawaiian home loan fund, the additional receipts loan fund, the Hawaiian home general loan fund, the Hawaiian home replacement loan fund, the Hawaiian home repair loan fund, the Hawaiian home farm loan fund, and the Hawaiian home operating fund.

(1) Hawaiian home loan fund. Thirty per cent of the state receipts derived from the leasing of cultivated sugarcane lands under any other provision of law or from water licenses shall be deposited into this fund. The aggregate amount of this fund including:

- (A) The outstanding principal of all loans, advances, and transfers which have been made to other funds for which this fund has not been or need not be reimbursed; and
- (B) The installments of principal paid by the lessees upon loans made to them from this fund, or payments representing reimbursements, on account of advances, but not including interest on such loans or advances,

shall not exceed \$5,000,000. The moneys in this fund shall be available for the purposes enumerated in section 214 of this Act.

That portion of the thirty per cent of the state receipts derived from the leasing of cultivated sugarcane lands under any other provision of law or from water licenses, in excess of the present ceiling in the Hawaiian home loan fund of \$5,000,000, which amount is called "additional receipts," shall be transferred to the Hawaiian home development fund, to the additional receipts loan fund, and the Hawaiian home education fund as follows: fifteen per cent to the additional receipts loan fund; thirteen per cent to the Hawaiian home development fund; and seventy-two per cent to the Hawaiian home education fund; provided that until June 30, 1979, the aggregate amount so transferred shall not exceed the maximum amount of \$5,000,000 which maximum amount shall be increased to \$5,000,000 from and after July 1, 1979.

- (2) Additional receipts loan fund. Moneys transferred to this fund, installments of principal paid by the lessees upon loans made to them from this fund, or as payments representing reimbursement on account of advances, but not including interest on such loans or advances, shall be

- used for the purposes enumerated in section 214 of this Act.
- (3) Hawaiian home general loan fund. Moneys appropriated by the legislature for the construction of homes but not otherwise set aside for a particular fund, excluding moneys appropriated for construction of replacement homes; moneys transferred from the Hawaiian loan interest fund and installments of principal paid by the lessees upon loans made to them from this fund, or as payments representing reimbursements on account of advances, but not including interest on such loans or advances; shall be deposited to this fund. The moneys in the fund shall be used for purposes enumerated in section 214 of this Act.
  - (4) Hawaiian home replacement loan fund. The moneys in this fund shall be used to make loans to lessees to construct replacement homes upon their residence lots. Moneys appropriated by the legislature for replacement home construction loans; moneys transferred from the Hawaiian loan interest fund; installments of principal paid by the lessees upon loans made to them from this fund; and moneys transferred from other funds or accounts by legislative authorization shall be deposited into this fund.
  - (5) Hawaiian home repair loan fund. Moneys appropriated to this fund by the legislature; moneys transferred from the Hawaiian loan interest fund; and installments of principal paid by the lessees upon loans made to them from this fund shall be deposited to this fund. The moneys in this fund shall be used to make loans in amounts not in excess of \$15,000 to lessees for repairs to their existing homes and for additions to such homes.
  - (6) Hawaiian home farm loan fund. Moneys appropriated to this fund by the legislature; moneys transferred from the Hawaiian loan interest fund; and installments of principal paid by the lessees upon loans made to them from this fund shall be deposited to this fund. The moneys in this fund shall be used to make loans not in excess of \$35,000 to lessees of agricultural tracts leased under section 207 of this Act.
  - (7) Hawaiian home operating fund. The interest transferred from the Hawaiian home loan fund, all fees received by the department from any other source, and moneys transferred from the Hawaiian loan interest fund, except moneys received by the Hawaiian home administration account shall be directly deposited into the Hawaiian home operating fund. The moneys in this fund shall be available:
    - (A) For construction and reconstruction of revenue-producing improvements intended to principally serve occupants of Hawaiian home lands, including acquisition or lease therefor of real property and interests therein, such as water rights or other interests;
    - (B) For payment into the treasury of the State of such amounts as are necessary to meet the interest and principal charges for state bonds issued for such revenue-producing improvements;
    - (C) For operation and maintenance of such improvements constructed from such funds or other funds;
    - (D) For the purchase of water or other utilities, goods, commodities, supplies, or equipment needed for services, or to be resold, rented, or furnished on a charge basis to occupants of Hawaiian home

- lands; and
- (E) For appraisals, studies, consultants (architects, engineers), or any other staff services including those in section 202(b) required to implement, develop, and operate these projects. The moneys in this fund may be supplemented by other funds available for, or appropriated by the legislature for, the same purposes. In addition to such moneys, this fund, with the approval of the governor, may be supplemented by transfers, made on a loan basis from the Hawaiian home loan fund for a period not exceeding ten years; provided that the aggregated amount of such transfers outstanding at any one time shall not exceed \$500,000."

SECTION 2. Section 214, Hawaiian Homes Commission Act, 1920, is amended by amending subsection (b) to read:

- "(b) In addition the department may:
- (1) Use moneys in the development and operating funds, with the prior approval of the governor, to match federal, state, or county funds available for the same purposes and to that end, enter into such undertaking, agree to such conditions, transfer funds therein available for such expenditure, and do and perform such other acts and things, as may be necessary or required, as a condition to securing matching funds for such projects or works;
  - (2) Loan or guarantee the repayment of or otherwise underwrite any authorized loan or portion thereof, up to a maximum of \$50,000 to lessees in accordance with section 215;
  - (3) Loan or guarantee the repayment of or otherwise underwrite any authorized loan or portion thereof to a cooperative association in accordance with section 215;
  - (4) Permit and approve loans made to lessees by government agencies or private lending institutions, where the department assures the payment of such loans; provided that upon receipt of notice of default in the payment of such assured loans, the department may, upon failure of the lessee to cure the default within sixty days, cancel the lease and pay the outstanding balance in full or may permit the new lessee to assume the outstanding debt; and provided further that the department shall reserve the following rights: the right of succession to the lessee's interest and assumption of the contract of loan; the right to require that written notice be given to the department immediately upon default or delinquency of the lessee; and any other rights enumerated at the time of assurance necessary to protect the monetary and other interests of the department;
  - (5) Secure, pledge, or otherwise guarantee the repayment of moneys borrowed by the department from government agencies or private lending institutions and pay the interim interest or advances required for loans; provided that the State's liability, contingent or otherwise, either on moneys borrowed by the department or on departmental guarantees of loans made to lessees under this paragraph and paragraphs (2), (3), and (4) of this section, shall at no time exceed \$21,000,000;
  - (6) Use available loan fund moneys or other funds specifically available for

- such purposes as cash guarantees when required by lending agencies;
- (7) Exercise the functions and reserved rights of a lender of money or mortgagee of residential property in all direct loans made by government agencies or by private lending institutions to lessees the repayment of which is assured by the department. The functions and reserved rights shall include but not be limited to, the purchasing, repurchasing, servicing, selling, foreclosing, buying upon foreclosure, guaranteeing the repayment, or otherwise underwriting, of any loan, the protecting of security interest, and after foreclosures, the repairing, renovating, or modernization and sale of property covered by the loan and mortgage."

SECTION 3. Section 215, Hawaiian Homes Commission Act, 1920, is amended to read:

**"§215. Conditions of loans.** Except as otherwise provided in section 213(a)(5), each contract of loan with the lessee or any successor or successors to his interest in the tract or with any agricultural or mercantile cooperative association composed entirely of lessees shall be held subject to the following conditions whether or not stipulated in the contract loan:

- (1) At any one time, the outstanding amount of loans made to any lessee, or successor or successors in interest, for the repair, maintenance, purchase, and erection of a dwelling and related permanent improvements shall not exceed \$50,000, for the development and operation of a farm or a ranch shall not exceed \$35,000, except that when loans are made to an agricultural cooperative association for the purposes stated in section 214(a)(4), the loan limit shall be determined by the department on the basis of the proposed operations and the available security of the association, and for the development and operation of a mercantile establishment shall not exceed the loan limit determined by the department on the basis of the proposed operations and the available security of the lessee or of the organization formed and controlled by lessees; provided that upon the death of a lessee leaving no relative qualified to be a lessee of Hawaiian home lands, or the cancellation of a lease by the department, or the surrender of a lease by the lessee, the department shall make the payment provided for by section 209(1), the amount of any such payment made to the legal representative of the deceased lessee, or to the previous lessee, as the case may be, shall be considered as part or all, as the case may be, of any such loan to the successor or successors, without limitation as to the above maximum amounts; provided further that in case of the death of a lessee, or cancellation of a lease by the department, or the surrender of a lease by the lessee, the successor or successors to the tract shall assume any outstanding loan or loans thereon, if any, without limitation as to the above maximum amounts but subject to paragraph (3).
- (2) The loans shall be repaid in periodic installments, such installments to be monthly, quarterly, semiannual, or annual as may be determined by the department in each case. The term of any loan shall not exceed thirty years. Payments of any sum in addition to the required installments, or payment of the entire amount of the loan, may be made at any time within

the term of the loan. All unpaid balances of principal shall bear interest at the rate of two and one-half per cent a year for loans made directly from the Hawaiian home loan fund, or at the rate of two and one-half per cent or higher as established by law for other loans, payable periodically or upon demand by the department, as the department may determine. The payment of any installment due shall be postponed in whole or in part by the department for such reasons as it deems good and sufficient and until such later date as it deems advisable. Such postponed payments shall continue to bear interest on the unpaid principal at the rate established for the loan.

- (3) In the case of the death of a lessee the department shall, in any case, permit the successor or successors to the tract to assume the contract of loan subject to paragraph (1). In case of the cancellation of a lease by the department or the surrender of a lease by the lessee, the department may, at its option declare all installments upon the loan immediately due and payable, or permit the successor or successors to the tract to assume the contract of loan subject to paragraph (1). The department may, in such cases where the successor or successors to the tract assume the contract of loan, waive the payment, wholly or in part, of interest already due and delinquent upon the loan, or postpone the payment of any installment thereon, wholly or in part, until such later date as it deems advisable. Such postponed payments shall, however, continue to bear interest on the unpaid principal at the rate established for the loan. Further, the department may, if it deems it advisable and for the best interests of the lessees, write off and cancel, wholly or in part, the contract of loan of the deceased lessee, or previous lessee, as the case may be, where such loans are delinquent and deemed uncollectible. Such write off and cancellation shall be made only after an appraisal of all improvements and growing crops on the tract involved, such appraisal to be made in the manner and as provided for by section 209(1). In every case, the amount of such appraisal, or any part thereof, shall be considered as part or all, as the case may be, of any loan to such successor or successors, subject to paragraph (1).
- (4) No part of the moneys loaned shall be devoted to any purpose other than those for which the loan is made.
- (5) The borrower or the successor to his interest shall comply with such other conditions, not in conflict with any provision of this Act, as the department may stipulate in the contract of loan.
- (6) The borrower or the successor to his interest shall comply with the conditions enumerated in section 208, and with section 209 of this Act in respect to the lease of any tract.
- (7) Whenever the department shall determine that a borrower is delinquent in the payment of any indebtedness to the department, it may require such borrower to execute an assignment to it, not to exceed, however, the amount of the total indebtedness of such borrower, including the indebtedness to others the payment of which has been assured by the department of all moneys due or to become due to such borrower by

reason of any agreement or contract, collective or otherwise, to which the borrower is a party. Failure to execute such an assignment when requested by the department shall be sufficient ground for cancellation of the borrower's lease or interest therein."

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

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

(Approved June 18, 1981.)

## ACT 204

H.B. NO. 1511

A Bill for an Act Relating to Interest and Usury.

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

**SECTION 1.** Section 478-8, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) The provisions of this chapter expressly limiting the rate or amount of interest, discount, charges, or other consideration which may be directly or indirectly taken, received, or reserved shall not apply to any:

- (1) Indebtedness which is secured by a first mortgage lien on real property, or by a first lien on stock in a residential cooperative housing corporation, and is agreed to or incurred after May 30, 1980; provided that for the purposes of this section a wraparound lien wherein the wraparound lender has committed to loan sufficient funds to pay off the principal amount of all prior liens shall be considered a first lien; or
- (2) Agreement of sale made after May 30, 1980 under which a vendor agrees to sell real property to a vendee but retains legal title to the real property and in which the rate of interest is clearly stated."

**SECTION 2.** Chapter 478, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§478- Wraparound lien.** A wraparound lien is a lien arising from a purchase-money loan which:

- (1) Is secured by a lien (the wraparound lien) on residential real property on which there exists one or more prior liens securing prior indebtedness;
- (2) Matures no earlier than the latest maturity date of any prior indebtedness; and
- (3) Is evidenced by a note or bond which:
  - (A) In principal amount equals the aggregate of the outstanding prior indebtedness plus the additional funds advanced by the wrap-around lender;
  - (B) Requires payments by the wraparound borrower to the wrap-

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

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- around lender of periodic installments at least sufficient, to make required current payments on the prior indebtedness; and
- (C) Requires the wraparound lender to make the payments due on the prior indebtedness as long as installments are received from such borrower."

SECTION 3. 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 the Act are severable.

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

SECTION 5. This Act shall take effect upon its approval, but shall not affect any rights and duties that matured, penalties that were incurred, and proceedings that were begun, before the effective date of this Act. This Act shall not increase the maximum legal rate of interest, discount, charges or other consideration permissible under Hawaii or federal law on any indebtedness agreed to before the effective date of this Act. This Act shall not increase the rate of interest, discount, charges, or other consideration agreed to in any commitment entered into before the effective date of this Act; provided that if any commitment for a wraparound loan entered into before the effective date of this Act was conditioned in effect on the fact that the interest, discount, charges, or other consideration agreed to would not be usurious at the time of closing of the loan then the provisions of this Act will apply if the loan so committed to is closed after the effective date of this Act.

(Approved June 18, 1981.)

## ACT 205

H.B. NO. 1871

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

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

SECTION 1. The purpose of this Act is to provide the exclusive representatives of certain bargaining units another option to negotiate a model conversion plan.

Act 253, Session Laws of Hawaii 1980, granted exclusive representatives the option to negotiate a model conversion plan regarding a reduction in the number of steps within the salary ranges under chapter 77, Hawaii Revised Statutes. This option, however, expired on January 1, 1981.

Of the nine bargaining units with positions covered under chapter 77, Hawaii Revised Statutes, bargaining units 1 (non-supervisory blue-collar employees), 2 (supervisory blue-collar employees), and 9 (registered professional nurses) successfully negotiated model conversion plans before January 1, 1981. Conversion costs of

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

these plans are currently pending legislative approval and appropriations.

There are six white-collar units remaining without a model conversion plan. Exclusive representatives of these units have expressed their desire to have another option to negotiate a model conversion plan.

Accordingly, the legislature grants the exclusive representatives of bargaining units 3, 4, 10, 11, 12, and 13 another option to negotiate a model conversion plan in accordance with the guidelines under this Act. The model conversion plan must be developed and executed before January 1, 1983, to allow the parties sufficient time to conduct their next wage negotiations effective July 1, 1983, as well as subsequent wage negotiations, based on such mutually agreed upon conversion plan. In the absence of such a conversion plan, wage negotiations shall be based on the ten-step salary ranges for white-collar positions presently contained in the statutes.

This Act also clarifies that model conversion plans shall result from mutual agreement between the parties without resort to any impasse procedure. Additionally, it specifies that mutually agreed upon model conversion plans shall remain in effect to serve as the bases for all subsequent wage negotiations. Finally, although the number of salary ranges is still nonnegotiable, the Act allows for the redesignation of salary ranges in the publication of pay schedules and the exclusion of salary ranges which are not being used from respective pay schedules.

## SECTION 2. Section 77-5, Hawaii Revised Statutes, is amended to read:

**“§77-5 Compensation plan for blue-collar positions.** The salary structures and schedules prescribed in section 77-13 shall not apply to positions in recognized trades or crafts or other skilled mechanical crafts, or unskilled, semiskilled, or skilled manual labor occupations, including positions of foremen, inspectors, and supervisors in positions having trades, crafts, or laboring experience and knowledge as the paramount requirement, commonly known as blue-collar positions.

- (1) The provisions of sections 77-4 where it is not inconsistent with the provisions of this section shall be applicable.
- (2) Salary structures and schedules.
  - (A) The salary structures applicable to blue-collar positions shall be comprised of fifteen salary grades with each grade consisting of such number of steps determined under section 77-13.5.
  - (B) Pay schedules for nonsupervisory blue-collar positions, hereafter to be referred to as the wage board schedules, shall be established as provided under subparagraph (D).
  - (C) Pay schedules for supervisory blue-collar positions, hereafter to be referred to as wage board supervisory schedules, shall be established as provided under subparagraph (D) for each of the following levels:
    - (i) Working foreman;
    - (ii) Foreman I;
    - (iii) Foreman II;
    - (iv) Foreman III; and,
    - (v) General foreman.
  - (D) The pay schedules applicable to employees in blue-collar positions, who are included in collective bargaining units under section 89-

6(a), shall be subject to negotiations. The pay schedules applicable to employees in blue-collar positions, who are excluded from coverage under chapter 89, shall be subject to chapter 89C.

- (3) Wherever payment is made on the basis of an annual, weekly, hourly, or daily rate, the rate shall be computed as provided for under section 77-13(c).
- (4) Implementation of compensation plan.
  - (A) The conference of personnel directors shall compile and recommend to the public employees compensation appeals board a tentative compensation plan based upon such factors as the kind and subject matter of work, level of difficulty and responsibility, and qualification requirements for classes deemed covered by this section by October 15 of every odd-numbered year.

Full opportunity for consultation with the persons and organizations including employee organizations shall be afforded.

- (B) The appeals board referred to in section 77-4 shall provide for the publication of the tentative compensation plan. All petitions for appeal against the compensation plan, including the pricing of classes or whether the class should be included or excluded from the blue-collar plan, shall be filed with the appeals board within twenty days from the date of publication of the tentative plan.

The board shall meet biennially to hear appeals from affected persons and parties concerning the tentative compensation plan and may hold public hearings as well. At least one appeal hearing shall be held in each jurisdiction.

Final adjustment by the board to the compensation plan shall be in accordance with its established policies and standards relative to compensation. The board shall complete its final adjustments by the third Wednesday in January of every even-numbered year.

Following the final adjustment, the conference of personnel directors shall submit to the state legislature, through the office of the governor, a report setting forth the final compensation plan and the cost thereof for its information and approval. The effective date of the approved plans shall be July 1 of every even-numbered year.

- (5) Subsequent implementation of the compensation plan. The compensation plan for positions covered under this section shall be reviewed and adjusted biennially in accordance with paragraph (4)."

SECTION 3. Section 77-13, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

"(a) The salary structures for white-collar positions covered under this chapter shall be comprised of thirty-one salary ranges, designated SR 4 to SR 31, SC-1, SC-2, and SC-3. In the publication of pay schedules, however, salary ranges may be redesignated and salary ranges which are not being used may be excluded from the respective pay schedules; provided that if SC ranges are being used, they shall be identified as such so that subsection (d) remains applicable. Unless otherwise determined under section 77-13.5, each salary range shall consist of ten steps, designated

B to G and L-1 to L-4; provided that range SC-2 shall consist of nine steps, designated B to G, L-1, L-2, and L-3, and range SC-3 shall consist of eight steps, designated B to G, L-1, and L-2."

SECTION 4. Section 77-13.5, Hawaii Revised Statutes, is amended to read:

**"§ 77-13.5 Conversion to appropriate salary ranges.** (a) Any provision of law to the contrary notwithstanding, the chief executives of the State and counties and the chief justice of the supreme court, as appropriate, may reduce the number of steps within the salary ranges under sections 77-5 and 77-13, as provided in this section. In no event shall the number of steps be increased, except by action of the state legislature.

(b) For employees in positions under this chapter who are included in bargaining units under chapter 89, the conversion to salary ranges with fewer steps shall be subject to negotiations, at the option of the exclusive representative of an appropriate bargaining unit, but without resort to any impasse procedure whether by statute or agreement; provided the option is exercised in accordance with subsections (c) and (d). For employees in positions under this chapter who are excluded from collective bargaining units, the conversion shall be subject to chapter 89C and subsection (e).

(c) Each exclusive representative may exercise the option to negotiate a model conversion plan regarding a reduction in the number of steps within the salary ranges under section 77-5 or 77-13, as applicable, for positions within its appropriate bargaining unit, by notifying the appropriate employers of its intent in writing. The employers and the exclusive representative shall meet for the purpose of developing a mutually agreeable conversion plan which meets the requirements of subsection (d). Any such plan mutually agreed upon shall be reduced to writing and signed by the parties before January 1, 1983. The plan shall be binding upon the parties, except that all costs relative to the conversion shall be subject to approval and appropriations by the appropriate legislative bodies, along with negotiated pay increases and other cost items, as required under section 89-10(b). In the absence of a mutually agreed upon model conversion plan before January 1, 1983 for any particular bargaining unit, wage negotiations for such unit shall be based on the existing salary ranges and steps as provided in section 77-5 or 77-13, as applicable.

(d) Any model conversion plan agreed to between the employers and the exclusive representative shall contain the following:

- (1) An agreement that the objective of the conversion plan is to reduce the number of steps within each salary range under section 77-5 or 77-13, as applicable, for positions within the appropriate bargaining unit, to a specific number of steps.
- (2) An agreement that the model conversion plan shall remain in effect and shall not be modified except by written mutual agreement of the parties.
- (3) An agreement that during the fiscal year commencing July 1, 1983, and each subsequent fiscal year, at least one step shall be deleted from the salary ranges until the salary ranges are reduced to such number of steps mutually agreed upon under paragraph (1).
- (4) An agreement that all negotiations on wages, to be effective July 1, 1983 and subsequently, shall be based on the model conversion plan and that

no other pay rates shall be negotiated, other than those rates for the number of steps allowable under paragraph (3) or such fewer number of steps as mutually agreed upon between the parties.

- (5) An agreement that all employees in bargaining unit positions subject to this chapter shall be paid, commencing July 1, 1983, in accordance with the rates negotiated for the steps on the revised salary schedule within their applicable salary ranges.
- (6) An agreement regarding the adjusting of employees' pay from their existing rates to those rates negotiated for the steps on the revised salary schedule within their applicable salary ranges; provided that such an agreement may contain a provision for the payment of a bonus or conversion differential if it is not to be considered as an adjustment to an employee's basic pay rate.

The parties shall not agree to a conversion plan which does not meet the requirements of this section nor agree to any amendments which would be inconsistent with this section.

(e) The chief executives of the State and the counties and the chief justice of the supreme court, as applicable, may reduce the number of steps within the salary ranges under sections 77-5 and 77-13 for positions excluded from collective bargaining coverage. Their designated representatives shall review the model conversion plans applicable to employees included in collective bargaining units before reaching a decision under section 89C-3 concerning adjustments regarding a reduction in the number of steps for excluded employees; provided that any reduction in the number of steps for excluded employees shall harmonize with the model conversion plans developed for included employees; provided further that if a model conversion plan is not developed for employees included in a collective bargaining unit, there shall be no reduction in the number of steps for excluded employees under the same compensation plan as the employees included in that bargaining unit. The costs of reducing the salary ranges to fewer steps and any other general pay adjustments shall be subject to approval and appropriations by the appropriate legislative bodies in accordance with section 89C-5."

**SECTION 5.** The substance of the amendments of this Act, with exception of the amendment regarding coverage under section 77-13, Hawaii Revised Statutes, in S.B. No. 831,<sup>†</sup> shall control regardless of any other acts passed by the legislature during this Regular Session of 1981, whether enacted before or after the effective date of this Act.

**SECTION 6.** Statutory material to be repealed is bracketed. New material is underscored.\*

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

(Approved June 18, 1981.)

<sup>†</sup>Bill did not pass the legislature.

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 206

S.B. NO. 126

**A Bill for an Act Relating to Minors.***Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 704-418, Hawaii Revised Statutes, is amended to read as follows:

**"§704-418 Immaturity excluding penal conviction; transfer of proceedings to family court.** (1) A person shall not be tried for or convicted of an offense if the person is subject to the exclusive original jurisdiction of the family court, unless the family court has waived jurisdiction over the person.

(2) No court shall have jurisdiction to try or convict a person of an offense if penal proceedings against him are barred by subsection (1). When it appears that a person charged with the commission of an offense may be of such an age that penal proceedings may be barred under subsection (1), the court shall hold a hearing thereon, and the burden shall be on the prosecution to establish to the satisfaction of the court that the penal proceeding is not barred upon such grounds. If the court determines the penal proceeding is barred, custody of the person charged shall be surrendered to the family court, and the case, including all papers and processes relating thereto, shall be transferred."

SECTION 2. Section 571-13, Hawaii Revised Statutes, is amended to read as follows:

**"§571-13 Retention of jurisdiction.** Except as otherwise provided in this chapter, jurisdiction obtained by the court in the case of a minor may be retained by it, for the purposes of this chapter, after the minor becomes eighteen years of age until the full term for which any order entered shall have expired. Further, in the case of any person who is alleged to have committed an offense under section 571-11 prior to reaching eighteen years of age, the court shall have jurisdiction after the person becomes eighteen for the purposes of holding hearings and/or entering orders of disposition concerning the alleged offenses. This section shall not be construed, however, to confer any jurisdiction upon the family court over a person for any criminal act committed after the person achieves eighteen years of age."

SECTION 3. This Act does not affect rights and duties which matured, penalties which were incurred, and proceedings which were begun before the effective date.

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

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

(Approved June 19, 1981.)

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

A Bill for an Act Relating to Grants, Subsidies, and Purchases of Service.

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

SECTION 1. Title 5, Hawaii Revised Statutes, is amended by adding a new chapter to be appropriately designated and to read as follows:

**"CHAPTER  
GRANTS, SUBSIDIES, AND PURCHASES OF SERVICE**

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

- (1) "Agency" means the judiciary, any department, office, board, foundation, commission, or other establishment of the state government, including the University of Hawaii.
- (2) "Chief executive" means the chief justice in the case of the judiciary or the governor in the case of the State.
- (3) "Director" means the administrative director of the courts in the case of the judiciary or the director of finance in the case of the State.
- (4) "Grant" means an appropriation of public funds to a recipient for a specified public purpose.
- (5) "Nepotism" means appointing persons to positions on a basis of their blood or marital relationship to the appointing authority, rather than on merit or ability.
- (6) "Perquisite" means a privilege furnished or a service rendered by an organization to an employee, officer, director, or member of that organization to reduce the individual's personal expenses.
- (7) "Provider" means any person, association or corporation contracted by the State to provide services under a purchase of service contract.
- (8) "Purchase of service" means the exchange by an agency of goods and services to be delivered by a provider to the general public or specified members of the general public for cash payments substantially equal in value to such goods and services; but not including the purchase of service of a court-appointed attorney for an indigent.
- (9) "Recipient" means a person, association or corporation receiving a grant or a subsidy.
- (10) "Request" means a proposal for a grant, subsidy, or proposal for a purchase of service contract.
- (11) "Subsidy" means an appropriation of public funds made to alter the price or the cost of a particular good or service of the recipient for the purpose of encouraging or discouraging the output or supply of these items.

**§ -2 Qualifying standards for applicants.** An applicant for a grant, subsidy or purchase of service agreement shall meet all of the following standards:

- (1) Be a profit organization incorporated under the laws of the State or a non-profit organization determined to be exempt from the federal income tax by the Internal Revenue Service;

- (2) In the case of a nonprofit organization, have a governing board whose members have no material conflict of interest and serve without compensation;
- (3) Have bylaws or policies which describe the manner in which business is conducted, including for nonprofit organizations, policies relating to nepotism and management of potential conflict of interest situations;
- (4) Have at least one year's experience with the project or in the program area for which the request is being made; and
- (5) Be licensed and accredited in accordance with applicable requirements of federal, state, and county governments.

**§ -3 Conditions for grants, subsidies or purchases of service agreement.**

Applicants to whom a grant or subsidy has been made, or a purchase of service agreement awarded, shall agree to comply with the following conditions before receiving the grant, subsidy or purchase of service agreement:

- (1) Employ or have under contract such persons as are qualified to engage in the activity to be funded in whole or in part by the State; provided that for nonprofit organizations, no two or more members of a family or kin of the first or second degree shall be employed or under contract by the organization unless specifically permitted in writing by the director or the director of the expending agency for the appropriation; provided further for nonprofit organizations, that the provider or recipient shall also agree that any salary or employee benefit increase shall be granted only upon the prior approval of the director or the grants, subsidies or purchases of service agreement shall be subject to a decrease by an amount equal to the amount of increase not so approved;
- (2) Comply with applicable federal and state laws prohibiting discrimination against any person on the basis of race, color, national origin, religion, creed, sex, or age;
- (3) Agree not to use any public funds for purposes of entertainment or perquisites;
- (4) Comply with such other requirements as the director may prescribe to ensure adherence by the provider or recipient with federal, state, and county laws; and
- (5) Allow the expending agency, the director, the committees of the legislative bodies and their staffs, and the legislative auditor full access to records, reports, files, and other related documents in order that the program, management and fiscal practices of the providers or recipients may be monitored and evaluated to assure the proper and effective expenditure of public funds.

**§ -4 Required review of requests.** (a) Every request for a grant, subsidy or purchase of service agreement shall be reviewed as provided in this section.

(b) Every request for a grant, subsidy or purchase of service agreement shall be submitted to the director who shall then transmit the request to the appropriate agency for review. The request shall be submitted on forms provided by the director and shall contain a statement of the objective of the activity to be funded by the grant, subsidy or purchase of service agreement, financial information regarding the

provider or recipient, personnel position salaries, and such other information as the director shall require.

(c) The director shall adopt rules, pursuant to chapter 91, defining conditions for grant, subsidy or purchase of service agreement, the timetable for the submission of requests, the analysis required of requests, and in the case of purchases of service, the procedure for soliciting requests. The director may adopt such other rules as may be necessary to meet the requirements of this section.

(d) The appropriate agency shall review each request to determine the efficiency and the effectiveness of the proposed grant, subsidy or purchase of service agreement in achieving the objectives of the judiciary or the State. The review shall include an analysis of the request in terms of the objectives to be achieved, the alternatives by which to achieve the objectives, and the respective costs, benefits, and effectiveness of the alternatives. Where personnel service costs are requested to be funded in whole or in part, the review shall determine the reasonableness of personnel classification and compensation plans. The agency shall invite the applicant to discuss the request with the agency and to comment on the analysis of the agency.

(e) The agency shall prepare a statement of its findings and recommendations for each request. Every request recommended for approval shall be included in the budget submitted by the agency to the chief executive.

**§ -5 Submission of requests to the legislature.** (a) The chief executive shall review the findings and recommendations and the budget submission of the agency, revise the same as necessary, and submit to the legislature a statement of findings and recommendations on each request for a grant, subsidy or purchase of service agreement. The chief executive shall include in the executive or judiciary budget submitted to the legislature all requests recommended for fundings. The chief executive shall summarize in a separate report all requests not recommended for funding and submit the report to the legislature, together with the statements of findings and recommendations. A copy of the statement of findings and recommendations of the chief executive on each request for a grant, subsidy or purchase of service agreement shall be furnished to the requestor.

(b) Every recommendation which the chief executive submits to the legislature for appropriation of funds for a transfer shall include the applicant's request and shall state:

- (1) The public purpose to be served;
- (2) The objective intended to be achieved;
- (3) The activity and service to be performed;
- (4) The target group to be affected;
- (5) Measures by which the effectiveness of the grant, subsidy or purchase of service agreement is to be evaluated;
- (6) The analysis and justification for the recommended grant, subsidy or purchase of service agreement; and
- (7) The intended uses of the funds, according to "cost categories" and "cost elements" as defined in section 37-62.

(c) A request not reviewed pursuant to section -4(d) may be submitted in writing to the appropriate standing committee of the legislature and shall state that the request has not been reviewed. The chairperson of the appropriate standing committee shall refer such a request to the appropriate agency for review. The agency

shall submit a statement of its findings and recommendations to the legislative committee within ten days of its receipt of the request.

**§ -6 Appropriations for grant, subsidy or purchase of service agreement.** (a) Funds for each grant, subsidy or purchase of service agreement that are not included in the budget submitted by the chief executive to the legislature may be appropriated by a separate bill; provided that all appropriations are based on a request reviewed in accordance with section -4(d) or -5(d).† The bill shall specify whether a grant, subsidy, or purchase of service is being made, name the recipient in the case of a grant or subsidy, and define the public purpose to be served by the appropriation. Funds shall be appropriated by "cost categories" and "cost elements" as defined in section 37-62.

(b) A grant or subsidy may be authorized for a period not to exceed two years and shall not be renewed unless the request for renewal is reviewed in accordance with section -4 and the legislature determines that there is a continuing need and public purpose to be served by the grant or subsidy.

(c) Funds for purchases of service may be appropriated to agencies without naming the specific providers.

**§ -7 Allotment.** (a) Appropriations for grant, subsidy or purchase of service agreement shall be subject to the allotment system generally applicable to all appropriations made by the legislature. The director shall adopt rules pursuant to chapter 91 to ensure the fair and uniform allotment of appropriations for grant, subsidy or purchase or †† service agreement.

(b) Allotments shall be by "cost categories" and "cost elements" as defined in section 37-62.

**§ -8 Contracts.** (a) Appropriations for grant, subsidy or purchase of service agreement shall not be released unless a contract is entered into between the appropriate agency and the recipient or provider. The director shall develop contract forms for grants, subsidies, and purchases of service. The agency shall determine the contract form to be used for each grant, subsidy or purchase of service agreement and shall execute each contract not later than sixty days from the effective date of the appropriation or as soon as practicable thereafter. If the contract is not executed within the sixty days, the agency shall inform the recipient or provider as to when the contract is expected to be executed.

(b) Each contract shall specify that the State shall not be held liable for any claims or damages resulting from the acts of the recipient or provider. Each recipient or provider shall require signed waivers from the participants in the recipient's or provider's program holding the State harmless from liability.

(c) All contracts shall be reviewed by the administrative director of the courts in the case of the judiciary and the attorney general in the case of the State for conformance with the public purpose and legislative intent of the grant, subsidy or purchase of service agreement.

(d) Every contract with a provider shall be based on a request solicited by the

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†Probably should read "-5(c)".

††Probably should read "of".

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appropriate agency in accordance with the rules adopted by the director pursuant to section -4(c).

**§ -9 Monitoring and evaluation.** (a) Every grant, subsidy or purchase of service agreement shall be monitored by the appropriate agency to ensure compliance with this chapter and the public purpose and legislative intent of the grant, subsidy or purchase of service agreement.

(b) Every grant, subsidy or purchase of service agreement shall be evaluated annually to determine its continued eligibility and whether the grant, subsidy or purchase of service agreement attained the intended results in the manner contemplated.

(c) The director shall develop procedures and adopt rules pursuant to chapter 91 to assist agencies in monitoring and evaluating grant, subsidy or purchase or service agreement.

**§ -10 Continued eligibility.** Any recipient or provider who withholds or omits any material facts or deliberately misrepresents such facts to an agency shall be in violation of this chapter. Any recipient or provider which has been found by an agency to have violated this chapter or the terms of its contract shall be prohibited from applying for any grant, subsidy or purchase of service agreement for a period of five years.

**§ -11 Standards of political subdivisions.** Each county shall establish standards for the grant of public money or property pursuant to Article VII, section 4, of the Constitution of the State of Hawaii.

**§ -12 Applicability.** This chapter shall be construed to be consistent with existing statutory law; provided that in the case of a conflict, provisions contained in this chapter shall prevail."

**SECTION 2.** The office of the legislative auditor shall monitor and evaluate the implementation of this Act and shall submit status reports on its findings to the regular legislative sessions of 1983 and 1984.

**SECTION 3.** Sections -4, -5, and -6, set forth in section 1 of this Act shall take effect on January 1, 1982. All other sections set forth in section 1 and all other portions of this Act shall take effect upon approval.

(Approved June 19, 1981.)

**ACT 208**

**S.B. NO. 547**

A Bill for an Act Relating to Taxation.

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

**SECTION 1. Purpose.** The State of Hawaii has adopted the federal Internal Revenue Code of 1954, as amended, for the purpose of determining gross income and taxable income. By Act 62, Session Laws of Hawaii 1979, the legislature further conformed the income tax law of the State of Hawaii with the Internal Revenue Code as amended to December 31, 1978, as it applies to the determination of gross income, adjusted gross income, ordinary income and loss, and taxable income, except for certain provisions which were not made operative or which have been limited in operation. Public Law 95-30, effective for taxable years beginning with

1977, amended the Internal Revenue Code by redefining taxable income by replacing the percentage standard deduction and low-income allowance with the zero-bracket amount as a flat standard deduction, and also replaced the optional tax tables with tax tables for individuals.

Under the current zero-bracket amount allowed by the Internal Revenue Code, tax table income for individuals who do not itemize deductions is the same as adjusted gross income. For taxpayers who itemize deductions, tax table income is computed by subtracting the zero-bracket amount from the individual's total itemized deductions, and subtracting the excess itemized deductions from adjusted gross income.

The zero-bracket and tax table income provisions, however, are not operative for the State and the difference in the method of arriving at taxable income has caused confusion to many taxpayers with the possible result there may have been numerous occasions of overpayment of state taxes.

The purpose of this Act is to conform the method of arriving at taxable income for state purposes with the zero-bracket and tax table income provisions now allowed under the Internal Revenue Code.

## SECTION 2. Section 235-2.3, Hawaii Revised Statutes, is amended to read:

**"§235-2.3 Conformance to the federal Internal Revenue Code.** (a) For all taxable years beginning after December 31, 1979, 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, 1979 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 and this section do not apply or are otherwise limited in application and except that amendments to the Internal Revenue Code made by Public Law 95-600, section 702 (with respect to technical, clerical, and conforming amendments to estate and gift tax provisions) shall be operative for the purposes of this chapter on the effective dates set forth in section 702.

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, except that amendments to the Internal Revenue Code made by Public Law 95-600, section 702 (with respect to technical, clerical, and conforming amendments to estate and gift tax provisions) shall be operative for the purposes of (1) and (2) of this subsection even if such determination was made or such taxable year begins before January 1, 1978.

(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 58) (with respect to determination of tax liability).
- (2) Section 78 (with respect to dividends received from certain foreign corporations by domestic corporations choosing foreign tax credit).

- (3) Section 103 (with respect to interest on certain governmental obligations). For treatment, see section 235-7(b).
- (4) Section 116 (with respect to partial exclusion of dividends received by individuals). For treatment, see section 235-7(c).
- (5) Section 120 (with respect to amounts received under qualified group legal services plans). For treatment, see subsection (f) of this section and sections 235-7(a)(10) to (12) and 235-9(a)(2) and (5).
- (6) Section 122 (with respect to certain reduced uniformed services retirement pay). For treatment, see section 235-7(a)(3).
- (7) Section 151 (with respect to allowance of deductions for personal exemptions). For treatment, see section 235-54.
- (8) Section 169 (with respect to amortization of pollution control facilities). For treatment, see section 235-11.
- (9) 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).
- (10) Section 280C (with respect to portion of wages for which credit is claimed under section 44B).
- (11) Section 367 (with respect to foreign corporations).
- (12) Section 457 (with respect to deferred compensation plans with respect to service for state and local governments).
- (13) Subchapter F (sections 501 to 528) (with respect to exempt organizations), except as provided in subsection (f) of this section. For treatment, see section 235-9.
- (14) Subchapter G (sections 531 to 565) (with respect to corporations used to avoid income tax on shareholders).
- (15) Subchapter H (sections 581 to 596) (with respect to banking institutions). For treatment, see chapter 241.
- (16) Section 642(a), (b), and (d) (with respect to special rules for credits and deductions).
- (17) Section 668 (with respect to interest charge on accumulation distributions from foreign trusts).
- (18) Subchapter L (sections 801 to 844) (with respect to insurance companies). For treatment, see sections 431-318 and 431-320.
- (19) Section 853 (with respect to foreign tax credit allowed to shareholders). For treatment, see section 235-55.
- (20) Subchapter N (sections 861 to 999) (with respect to tax based on income from sources within or without the United States). For treatment, see sections 235-4, 235-5, and 235-7(b).
- (21) Section 1055 (with respect to redeemable ground rents).
- (22) Section 1057 (with respect to election to treat transfer to foreign trust, etc., as taxable exchange).
- (23) Section 1201 (with respect to alternative tax). For treatment, see section 235-71(a).
- (24) Subchapter Q (sections 1301 to 1351) (with respect to readjustment of

tax between years and special limitations).

- (25) Subchapter T (sections 1381 to 1388) (with respect to cooperatives and their patrons). For treatment, see chapter 421.

(c) Section 63 (with respect to taxable income defined) of the Internal Revenue Code shall be operative for the purposes of this chapter, except that the zero-bracket amount in section 63(d) of the Internal Revenue Code shall instead mean:

- (1) \$1,000 in the case of:
  - (A) A joint return as provided by section 235-93, or
  - (B) A surviving spouse (as defined in section 2(a) of the Internal Revenue Code),
- (2) \$800 in the case of an individual who is not married and who is not a surviving spouse (as so defined),
- (3) \$500 in the case of a married individual filing a separate return, or
- (4) Zero in any other case.

(d) Section 403 (with respect to taxation of employee annuities) of the Internal Revenue Code shall be operative for the purposes of this chapter; except the amendments to section 403 by Public Law 87-370, section 3 (with respect to employees of certain educational organizations) shall not be operative.

(e) In administering the provisions of sections 410 to 415 (with respect to special rules relating to pensions, profit sharing, stock bonus plans, etc.) of the Internal Revenue Code, the department of taxation shall adopt rules under chapter 91 relating to the specific requirements under such sections and to such other administrative requirements under those sections as may be necessary for the efficient administration of sections 410 to 415.

In administering sections 401 to 415 (with respect to deferred compensation) of the Internal Revenue Code, Public Law 93-406, section 1017(i), shall be operative for the purposes of this chapter.

In administering section 402 (with respect to the taxability of beneficiary of employees' trust) of the Internal Revenue Code, the tax imposed on lump sum distributions by section 402(e) of the Internal Revenue Code shall be operative for the purposes of this chapter and the tax imposed therein is hereby imposed by this chapter at the rate determined under this chapter.

(f) Sections 512 to 515 (with respect to taxation of business income of certain exempt organizations) of the Internal Revenue Code shall be operative for the purposes of this chapter as provided in this subsection.

The persons and organizations exempted by section 235-9 shall, if subject to tax under the Internal Revenue Code upon their "unrelated business taxable income", be taxed thereon under this chapter. For the purposes of this subsection the term "taxable income" as used in subsection (g)(2) of this section and section 235-71 shall be read as "unrelated business taxable income".

"Unrelated business taxable income" means the same as in the Internal Revenue Code, except that in the computation thereof sections 235-3 to 235-5, and 235-7 (except subsection (c)), shall apply, and in the determination of the net operating loss deduction under section 235-7(d) there shall not be taken into account any amount of income or deduction which is excluded in computing the unrelated business taxable income. Unrelated business income shall not include any income

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from a prepaid legal service plan.

(g) Section 641 (with respect to imposition of tax) of the Internal Revenue Code shall be operative for the purposes of this chapter subject to the following:

- (1) The deduction for exemptions shall be allowed as provided in section 235-54(b).
- (2) The deduction for contributions and gifts in determining taxable income shall be limited to the amount allowed in the case of an individual, unless the contributions and gifts are to be used exclusively in the State.
- (3) The tax imposed by section 1(e) of the Internal Revenue Code as applied by section 641 of the Internal Revenue Code is hereby imposed by this chapter at the rate and amount on individuals as determined under section 235-51(a).

(h) Section 644 (with respect to special rule for gain on property transferred to trust at less than market value) of the Internal Revenue Code shall be operative for the purposes of this chapter and the tax imposed therein is hereby imposed by this chapter at the rate determined under this chapter; except that the determination of the interest rate established under section 6621 of the Internal Revenue Code referred to in section 644(a)(2) of the Internal Revenue Code shall instead be the interest rate established under section 231-39(b)(4).

(i) Section 667 (with respect to treatment of amounts deemed distributed by trusts in preceding years) of the Internal Revenue Code shall be operative for the purposes of this chapter and the tax imposed therein is hereby imposed by this chapter at the rate determined under this chapter; except that the reference to tax-exempt interest to which section 103 of the Internal Revenue Code applies in section 667(a) of the Internal Revenue Code shall instead be a reference to tax-exempt interest to which section 235-7(b) applies.

(j) Section 1034 (with respect to rollover of gain on sale of principal residence) of the Internal Revenue Code shall be operative for the purpose of this chapter; provided section 1034(a) (with respect to nonrecognition of gain) of the Internal Revenue Code shall apply only to:

- (1) A taxpayer who purchases a replacement residence which is located within the State, or
- (2) A taxpayer who is a resident of the State, taxable upon the taxpayer's entire income, computed without regard to source within the State.

(k) Section 1212 (with respect to capital loss carrybacks and carryforwards) of the Internal Revenue Code shall be operative for the purposes of this chapter; except that for the purposes of this chapter the capital loss carryback provisions of section 1212 shall not be operative and the capital loss carryforward allowed by section 1212(a), shall be limited to five years.

(l) Subchapter S (sections 1371 to 1379) (with respect to the election of certain small business corporations as to taxable status) of chapter 1 of the Internal Revenue Code shall be operative for the purposes of this chapter subject to the following:

- (1) The term small business corporation as defined in section 1371 of the Internal Revenue Code means a corporation which does not have:
  - (A) A nonresident as a shareholder; or
  - (B) A resident who is an individual who has taken up residence in the State after attaining the age of sixty-five years and before July 1,

1976 and who is taxed under this chapter only on the basis of income received or derived from property owned, personal services performed, trade or business carried on, and any and every other source in the State;

unless the individual resident in subparagraph (B) shall have waived the benefit of section 3, Act 60, Session Laws of Hawaii 1976, as to income includible in the individual's gross income under this chapter and as to such gross income shall have consented to the taxation thereof in the same manner as if the individual had taken up residence in the State after June 30, 1976.

- (2) An election under section 1372(a) of the Internal Revenue Code made by a small business corporation shall terminate, if for any taxable year of the corporation for which the election is in effect such corporation derives more than eighty per cent of its gross receipts from sources outside the State of Hawaii. Such termination shall be effective for the taxable year of the corporation in which it derives more than eighty per cent of its gross income from sources outside the State and for all succeeding taxable years.
  - (3) An election under section 1372 of the Internal Revenue Code shall not be effective for any taxable year of the corporation unless there is also in effect for such taxable year an election for federal income tax purposes under subchapter S of chapter 1 of the Internal Revenue Code.
  - (4) The tax imposed by section 1378(a) of the Internal Revenue Code is hereby imposed by this chapter at an amount equal to 3.08 per cent on the amount by which the net capital gain of the corporation exceeds \$25,000. For the purposes of section 1378(c)(3) of the Internal Revenue Code the amount of tax to be determined shall not exceed 3.08 per cent on the net capital gain attributable to property acquired as provided in section 1378(c)(3)(B) of the Internal Revenue Code and having a basis described in section 1378(c)(3)(C) of the Internal Revenue Code.
- (m) References in provisions of subtitle A, chapter 1, of the Internal Revenue Code which are operative in this State to provisions in the Internal Revenue Code which are not operative in this State shall be considered inoperative for the purposes of determining gross income, adjusted gross income, ordinary income and loss, and taxable income; provided that references to time limits and other administrative provisions in subtitle F (sections 6001 to 7852) of the Internal Revenue Code contained in operative sections of subtitle A, chapter 1, of the Internal Revenue Code shall be deemed references to applicable provisions of this chapter or chapter 231 or 232, and in the absence of applicable provisions in this chapter or chapter 231 or 232, then to rules adopted by the director of taxation under subsection (n). If inoperative provisions of subtitle A, chapter 1, of the Internal Revenue Code have been codified in this chapter such references shall be deemed references to the codified provisions in this chapter. Transitory and savings provisions in federal Public Laws amending sections of the Internal Revenue Code operative in this chapter shall be operative for the purposes of this chapter. Provisions in this chapter or chapter 231 or 232 in conflict with the Internal Revenue Code or transitory or savings provisions in federal Public Law shall control.

(n) 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) 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.

(o) The department of taxation shall submit to each regular session of the legislature a bill to amend subsection (a) of this section and such other sections and subsections of this chapter as may be necessary to adopt the Internal Revenue Code as it exists on the December 31 preceding such regular session. In submitting the bill the department may provide that certain amendments to the Internal Revenue Code by Congress during the preceding calendar year shall not be operative in this State or as operative are limited in their operation. The department shall also prepare a digest and explanation of the amended provisions of the Internal Revenue Code recommended for operation, as well as those provisions which are limited in their operation, or which are not recommended for operation, and shall submit with the bill required by this subsection the digest, explanation, and a statement of revenue impact of the adoption of such bill. In preparing the bill, digest, and explanation the department may request the assistance of the office of the legislative reference bureau.

It is the intent of the legislature that it shall each year adopt all amendments to the Internal Revenue Code for the calendar year preceding the year in which the legislature meets; provided that the legislature may choose to adopt none of the amendments to the Internal Revenue Code or may provide that certain amendments are limited in their operation."

SECTION 3. Section 235-53, Hawaii Revised Statutes, is amended to read:

**"§235-53 Tax tables for individuals.** (a) Imposition of tax table tax:

- (1) In general. In lieu of the tax imposed by section 235-51, there is hereby imposed for each taxable year on the tax table income of every individual whose tax table income for such year does not exceed the ceiling amount, a tax determined under tables, applicable to such taxable year, which shall be prescribed by the director. In the tables so prescribed, the amounts of tax shall be computed on the basis of the rates prescribed by section 235-51.
- (2) Ceiling amount defined. For purposes of paragraph (1), the term "ceiling amount" means, with respect to any taxpayer, the amount (not less than \$20,000) determined by the director for the tax rate category in which such taxpayer falls.
- (3) Certain taxpayers with large number of exemptions. The director may exclude from the application of this section taxpayers in any tax rate category having more than the number of exemptions for that category determined by the director.
- (4) Tax table income defined. For purposes of this section, the term "tax table income" means adjusted gross income:
  - (A) Reduced by the excess itemized deductions, and

- (B) Increased (in the case of a married individual filing a separate return where either spouse itemizes deductions) by the unused zero-bracket amount.
- (b) Section inapplicable to certain individuals. This section shall not apply to:
  - (1) An individual making a return for a period of less than twelve months on account of a change in annual accounting period, and
  - (2) An estate or trust.
- (c) Tax treated as imposed by section 235-51. For purposes of this chapter, the tax imposed by this section shall be treated as tax imposed by section 235-51.
- (d) Taxable income. Whenever it is necessary to determine the taxable income of an individual to whom this section applies, the taxable income shall be determined under section 63 (with respect to taxable income defined) of the Internal Revenue Code as made operative in this chapter."

**SECTION 4.** It is not the intent of this Act to supersede in any manner the substantive amendments contained in H.B. No. 794, H.D. 2,† or S.B. No. 788, H.D. 1,†† passed by this regular session of 1981.

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

**SECTION 6.** This Act, upon its approval, shall apply to taxable years beginning after December 31, 1981.

(Approved June 19, 1981.)

#### ACT 209

S.B. NO. 788

A Bill for an Act Relating to Taxation.

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

**SECTION 1.** Section 235-2.3, Hawaii Revised Statutes, is amended to read:

**"§235-2.3 Conformance to the federal Internal Revenue Code.** (a) For all taxable years beginning after December 31, 1980, 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, 1980 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 and this section do not apply or are otherwise limited in application.

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

†Enacted as Act 3.

††Enacted as Act 209.

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

loss, and taxable income for a taxable year to which such sections apply where such taxable year begins before January 1, 1978.

(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 58) (with respect to determination of tax liability).
- (2) Section 78 (with respect to dividends received from certain foreign corporations by domestic corporations choosing foreign tax credit).
- (3) Section 103 (with respect to interest on certain governmental obligations). For treatment, see section 235-7(b).
- (4) Section 120 (with respect to amounts received under qualified group legal services plans). For treatment, see subsection (h) of this section and sections 235-7(a)(10) to (12) and 235-9(a)(2) and (5).
- (5) Section 122 (with respect to certain reduced uniformed services retirement pay). For treatment, see section 235-7(a)(3).
- (6) Section 151 (with respect to allowance of deductions for personal exemptions). For treatment, see section 235-54.
- (7) Section 169 (with respect to amortization of pollution control facilities). For treatment, see section 235-11.
- (8) 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).
- (9) Section 280C (with respect to portion of wages for which credit is claimed under section 44B).
- (10) Section 367 (with respect to foreign corporations).
- (11) Section 457 (with respect to deferred compensation plans with respect to service for state and local governments).
- (12) Subchapter F (sections 501 to 528) (with respect to exempt organizations), except as provided in subsection (h) of this section. For treatment, see section 235-9.
- (13) Subchapter G (sections 531 to 565) (with respect to corporations used to avoid income tax on shareholders).
- (14) Subchapter H (sections 581 to 596) (with respect to banking institutions). For treatment, see chapter 241.
- (15) Section 642(a), (b), and (d) (with respect to special rules for credits and deductions).
- (16) Section 668 (with respect to interest charge on accumulation distributions from foreign trusts).
- (17) Subchapter L (sections 801 to 844) (with respect to insurance companies). For treatment, see sections 431-318 and 431-320.
- (18) Section 853 (with respect to foreign tax credit allowed to shareholders). For treatment, see section 235-55.
- (19) Subchapter N (sections 861 to 999) (with respect to tax based on income from sources within or without the United States). For treatment, see sections 235-4, 235-5, and 235-7(b).

- (20) Section 1055 (with respect to redeemable ground rents).
- (21) Section 1057 (with respect to election to treat transfer to foreign trust, etc., as taxable exchange).
- (22) Section 1201 (with respect to alternative tax). For treatment, see section 235-71(a).
- (23) Subchapter Q (sections 1301 to 1351) (with respect to readjustment of tax between years and special limitations).
- (24) Subchapter T (sections 1381 to 1388) (with respect to cooperatives and their patrons). For treatment, see chapter 421.

(c) The determinations, provisions, and requirements relating to zero-bracket amounts in the amendments to the Internal Revenue Code by Public Law 95-30, sections 101 (with respect to change in tax rates and tax tables to reflect permanent increase in standard deduction) and 102 (with respect to change in definition of taxable income to reflect change in tax rates and tables) and Public Law 95-600, section 101(b) (with respect to increase in zero-bracket amount) and any other present or future amendments to the Internal Revenue Code relating to zero-bracket amounts shall not be operative for the purposes of this chapter.

(d) Section 116 (with respect to partial exclusion of dividends and interest received by individuals) of the Internal Revenue Code shall be operative for the purposes of this chapter. Public Law 96-223, section 404(c) (with respect to limiting the operation of section 116 to taxable years beginning after December 31, 1980, and before January 1, 1983), shall be operative for the purposes of this chapter.

(e) Sections 141 (with respect to standard deduction), 142 (with respect to individuals not eligible for standard deduction), and 144 (with respect to election of standard deduction) of the Internal Revenue Code, as amended, as of June 7, 1957, shall be operative for the purposes of this chapter, subsection (a) of this section to the contrary notwithstanding.

(f) Section 403 (with respect to taxation of employee annuities) of the Internal Revenue Code shall be operative for the purposes of this chapter; except the amendments to section 403 by Public Law 87-370, section 3 (with respect to employees of certain educational organizations) shall not be operative.

(g) In administering the provisions of sections 410 to 415 (with respect to special rules relating to pensions, profit sharing, stock bonus plans, etc.) of the Internal Revenue Code, the department of taxation shall adopt rules under chapter 91 relating to the specific requirements under such sections and to such other administrative requirements under those sections as may be necessary for the efficient administration of sections 410 to 415.

In administering sections 401 to 415 (with respect to deferred compensation) of the Internal Revenue Code, Public Law 93-406, section 1017(i), shall be operative for the purposes of this chapter.

In administering section 402 (with respect to the taxability of beneficiary of employees' trust) of the Internal Revenue Code, the tax imposed on lump sum distributions by section 402(e) of the Internal Revenue Code shall be operative for the purposes of this chapter and the tax imposed therein is hereby imposed by this chapter at the rate determined under this chapter.

(h) Sections 512 to 515 (with respect to taxation of business income of certain exempt organizations) of the Internal Revenue Code shall be operative for the pur-

poses of this chapter as provided in this subsection.

The persons and organizations exempted by section 235-9 shall, if subject to tax under the Internal Revenue Code upon their "unrelated business taxable income", be taxed thereon under this chapter. For the purposes of this subsection the term "taxable income" as used in subsection (i)(2) of this section and section 235-71 shall be read as "unrelated business taxable income".

"Unrelated business taxable income" means the same as in the Internal Revenue Code, except that in the computation thereof sections 235-3 to 235-5, and 235-7 (except subsection (c)), shall apply, and in the determination of the net operating loss deduction under section 235-7(d) there shall not be taken into account any amount of income or deduction which is excluded in computing the unrelated business taxable income. Unrelated business income shall not include any income from a prepaid legal service plan.

(i) Section 641 (with respect to imposition of tax) of the Internal Revenue Code shall be operative for the purposes of this chapter subject to the following:

- (1) The deduction for exemptions shall be allowed as provided in section 235-54(b).
- (2) The deduction for contributions and gifts in determining taxable income shall be limited to the amount allowed in the case of an individual, unless the contributions and gifts are to be used exclusively in the State.
- (3) The tax imposed by section 1(e) of the Internal Revenue Code as applied by section 641 of the Internal Revenue Code is hereby imposed by this chapter at the rate and amount on individuals as determined under section 235-51(a).

(j) Section 644 (with respect to special rule for gain on property transferred to trust at less than market value) of the Internal Revenue Code shall be operative for the purposes of this chapter and the tax imposed therein is hereby imposed by this chapter at the rate determined under this chapter; except that the determination of the interest rate established under section 6621 of the Internal Revenue Code referred to in section 644(a)(2) of the Internal Revenue Code shall instead be the interest rate established under section 231-39(b)(4).

(k) Section 667 (with respect to treatment of amounts deemed distributed by trusts in preceding years) of the Internal Revenue Code shall be operative for the purposes of this chapter and the tax imposed therein is hereby imposed by this chapter at the rate determined under this chapter; except that the reference to tax-exempt interest to which section 103 of the Internal Revenue Code applies in section 667(a) of the Internal Revenue Code shall instead be a reference to tax-exempt interest to which section 235-7(b) applies.

(l) Section 1034 (with respect to rollover of gain on sale of principal residence) of the Internal Revenue Code shall be operative for the purpose of this chapter; provided section 1034(a) (with respect to nonrecognition of gain) of the Internal Revenue Code shall apply only to:

- (1) A taxpayer who purchases a replacement residence which is located within the State, or
- (2) A taxpayer who is a resident of the State, taxable upon the taxpayer's entire income, computed without regard to source within the State.

(m) Section 1212 (with respect to capital loss carrybacks and carryforwards)

of the Internal Revenue Code shall be operative for the purposes of this chapter; except that for the purposes of this chapter the capital loss carryback provisions of section 1212 shall not be operative and the capital loss carryforward allowed by section 1212(a), shall be limited to five years.

(n) Subchapter S (sections 1371 to 1379) (with respect to the election of certain small business corporations as to taxable status) of chapter 1 of the Internal Revenue Code shall be operative for the purposes of this chapter subject to the following:

- (1) The term small business corporation as defined in section 1371 of the Internal Revenue Code means a corporation which does not have:
  - (A) A nonresident as a shareholder; or
  - (B) A resident who is an individual who has taken up residence in the State after attaining the age of sixty-five years and before July 1, 1976 and who is taxed under this chapter only on the basis of income received or derived\* from property owned, personal services performed, trade or business carried on, and any and every other source in the State;

unless the individual resident in subparagraph (B) shall have waived the benefit of section 3, Act 60, Session Laws of Hawaii 1976, as to income includable in the individual's gross income under this chapter and as to such gross income shall have consented to the taxation thereof in the same manner as if the individual had taken up residence in the State after June 30, 1976.

- (2) An election under section 1372(a) of the Internal Revenue Code made by a small business corporation shall terminate, if for any taxable year of the corporation for which the election is in effect such corporation derives more than eighty per cent of its gross receipts from sources outside the State of Hawaii. Such termination shall be effective for the taxable year of the corporation in which it derives more than eighty per cent of its gross income from sources outside the State and for all succeeding taxable years.
- (3) An election under section 1372 of the Internal Revenue Code shall not be effective for any taxable year of the corporation unless there is also in effect for such taxable year an election for federal income tax purposes under subchapter S of chapter 1 of the Internal Revenue Code.
- (4) The tax imposed by section 1378(a) of the Internal Revenue Code is hereby imposed by this chapter at an amount equal to 3.08 per cent on the amount by which the net capital gain of the corporation exceeds \$25,000. For the purposes of section 1378(c)(3) of the Internal Revenue Code the amount of tax to be determined shall not exceed 3.08 per cent on the net capital gain attributable to property acquired as provided in section 1378(c)(3)(B) of the Internal Revenue Code and having a basis described in section 1378(c)(3)(C) of the Internal Revenue Code.

(o) References in provisions of subtitle A, chapter 1, of the Internal Revenue Code which are operative in this State to provisions in the Internal Revenue Code which are not operative in this State shall be considered inoperative for the purposes of determining gross income, adjusted gross income, ordinary income and loss, and taxable income; provided that references to time limits and other administrative

provisions in subtitle F (sections 6001 to 7852) of the Internal Revenue Code contained in operative sections of subtitle A, chapter 1, of the Internal Revenue Code shall be deemed references to applicable provisions of this chapter or chapter 231 or 232, and in the absence of applicable provisions in this chapter or chapter 231 or 232, then to rules adopted by the director of taxation under subsection (n). If inoperative provisions of subtitle A, chapter 1, of the Internal Revenue Code have been codified in this chapter such references shall be deemed references to the codified provisions in this chapter. Transitory and savings provisions in federal Public Laws amending sections of the Internal Revenue Code operative in this chapter shall be operative for the purposes of this chapter. Provisions in this chapter 231 or 232 in conflict with the Internal Revenue Code or transitory or savings provisions in federal Public Law shall control.

(p) 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) 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.

(q) The department of taxation shall submit to each regular session of the legislature a bill to amend subsection (a) of this section and such other sections and subsections of this chapter as may be necessary to adopt the Internal Revenue Code as it exists on the December 31 preceding such regular session. In submitting the bill the department may provide that certain amendments to the Internal Revenue Code by Congress during the preceding calendar year shall not be operative in this State or as operative are limited in their operation. The department shall also prepare a digest and explanation of the amended provisions of the Internal Revenue Code recommended for operation, as well as those provisions which are limited in their operation, or which are not recommended for operation, and shall submit with the bill required by this subsection the digest, explanation, and a statement of revenue impact of the adoption of such bill. In preparing the bill, digest, and explanation the department may request the assistance of the office of the legislative reference bureau.

It is the intent of the legislature that it shall each year adopt all amendments to the Internal Revenue Code for the calendar year preceding the year in which the legislature meets; provided that the legislature may choose to adopt none of the amendments to the Internal Revenue Code or may provide that certain amendments are limited in their operation."

SECTION 2. Section 235-7, Hawaii Revised Statutes, is amended by amending subsection (c) to read:

"(c) The deductions of or based on dividends paid or received, allowed to a corporation under chapter 1, subchapter B, Part VIII of the Internal Revenue Code, shall not be allowed. In lieu thereof there shall be allowed as a deduction the entire amount of dividends received by any corporation upon the shares of stock of a national banking association, or received by a small business investment company operating under the Small Business Investment Act of 1958 (Public Law 85-699)

upon shares of stock qualifying under paragraph (3) below, eighty-five per cent of the amount received by any corporation as dividends:

- (1) Upon the shares of stock or another corporation, if at the date of payment of the dividend at least ninety-five per cent of the other corporation's capital stock is owned by one or more corporations doing business in this State and if the other corporation is subjected to an income tax in another jurisdiction (but subjection to federal tax does not constitute subjection to income tax in another jurisdiction);
- (2) Upon the shares of stock of a bank or insurance company organized and doing business under the laws of the State;
- (3) Upon the shares of stock of another corporation, if at least fifteen per cent of the latter corporation's business, for the taxable year of the latter corporation preceding the payment of the dividend, has been attributed to this State.

However, except for national bank dividends, the deductions under this subsection are not allowed when they would not have been allowed under section 243 of the Internal Revenue Code, as amended by Public Law 85-866, by reason of subsections (b) and (c) of section 246 of the Internal Revenue Code, as so amended. For the purposes of this subsection fifteen per cent of a corporation's business shall be deemed to have been attributed to this State if fifteen per cent or more of the entire gross income of the corporation as defined in this chapter (which for the purposes of this subsection shall be computed without regard to source in the State and shall include income not taxable by reason of the fact that it is from property not owned in the State or from a trade or business not carried on in the State in whole or in part) shall, under section 235-5 and the other provisions of this chapter, have been attributed to the State and subjected to assessment of the taxable income therefrom (including the determination of the resulting net loss, if any)."

SECTION 3. It is not the intent of this Act to supersede in any manner the substantive amendments contained in S.B. No. 547, S.D. 1, H.D. 1,† or H.B. No. 794, H.D. 2,†† passed by this regular session of 1981, except that:

- (1) The amendment to section 235-2.3(b), Hawaii Revised Statutes, deleting paragraph (4) and renumbering the remaining paragraphs shall supersede the amendment made to section 235-2.3(b)(4) made by H.B. No. 794, H.D. 2;†† and
- (2) The addition of a new subsection (d) to section 235-2.3, Hawaii Revised Statutes, by this Act shall be made as provided in this Act.

The revisor of statutes shall make the appropriate subsection redesignations throughout section 235-2.3, Hawaii Revised Statutes, resulting from the amendments made in this Act, H.B. No. 794, H.D. 2,†† and S.B. No. 547, S.D. 1, H.D. 1.†

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

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† Enacted as Act 208.

†† Enacted as Act 3.

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 210

SECTION 5. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1980.

(Approved June 19, 1981.)

## ACT 210

S.B. NO. 878

A Bill for an Act Relating to Commercial Fishing Vessels.

*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- Fuel tax credit for commercial fishers.** (a) Each principal operator of a commercial fishing vessel who files an individual or corporate net income tax return for a taxable year may claim an income tax credit under this section against the Hawaii state individual or corporate net income tax.

(b) The tax credit shall be an amount equal to the fuel taxes imposed under section 243-4(a) and paid by the principal operator during the taxable year.

(c) The tax credit claimed under this section by the principal operator shall be deductible from the principal operator's individual or corporate income tax liability, if any, for the tax year in which the credit is properly claimed; provided that a husband and wife filing separate returns for a taxable year for which a joint return could have been made by them shall claim only the tax credit to which they would have been entitled had a joint return been filed. If the tax credit claimed by the principal operator under this section exceeds the amount of the income tax payments due from the principal operator, the excess of credit over payments due shall be refunded to the principal operator; provided that the tax credit properly claimed by a principal operator who has no income tax liability shall be paid to the principal operator; and provided further no refunds or payments on account of the tax credit allowed by this section shall be made for amounts less than \$1.

(d) The director of taxation shall prepare such forms as may be necessary to claim a credit under this section, may require proof of the claim for the tax credit, and may adopt rules pursuant to chapter 91.

(e) All of the provisions relating to assessments and refunds under this chapter and under section 231-23(d) (1) shall apply to the tax credit under this section.

(f) Claims for the tax credit under this section, including any amended claims thereof, shall be filed on or before the end of the twelfth month following the taxable year for which the credit may be claimed.

(g) As used in this section:

(1) “Commercial fishing vessel” means any water vessel which is used to catch or process fish or transport fish loaded on the high seas.

(2) “Principal operator” means any individual or corporate resident taxpayer who derives at least fifty-one per cent of the taxpayer's gross annual income from commercial fishing operations.”

**SECTION 2.** New statutory material is underscored.\*

**SECTION 3.** This Act, upon its approval, shall apply to taxable years beginning after December 31, 1980.

(Approved June 19, 1981.)

## ACT 211

S.B. NO. 1050

A Bill for an Act Relating to Condominium Conversions.

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

**SECTION 1.** Section 521-38, Hawaii Revised Statutes, is amended to read as follows:

**"§521-38 Tenants subject to rental agreement; notice of conversions.** When a period of tenancy is pursuant to any rental agreement and where a landlord contemplates conversion to horizontal property regime under chapter 514A, the landlord:

- (1) Shall provide notice to the tenant at least one hundred twenty days in advance of the termination of the rental agreement, and
- (2) Shall comply with the provisions relating to such conversions provided in section 514A-105."

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

**SECTION 3.** This Act shall take effect upon its approval, and shall apply to projects for which a notice of intent has not been filed with the real estate commission prior to the effective date.

(Approved June 19, 1981.)

## ACT 212

S.B. NO. 1286

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

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

**SECTION 1.** Part II of Chapter 88, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"§88- Power to enter into security loan agreements.** Anything in this part to the contrary notwithstanding, the board of trustees may enter into an agreement or agreements with a financially responsible stock or bond brokerage firm, bank, or similar financial institution ("borrower") authorized to do business under the laws of any state or the United States, for the purpose of lending to the borrower securities

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 212

held by the system, subject to the following conditions:

- (1) The securities shall be loaned to the borrower for a period not to exceed one year;
- (2) At the termination of the loan period, the borrower shall deliver to the board of trustees certificates for identical securities which are of the same class and issue as the loaned securities;
- (3) For the protection of the system, the borrower shall deliver to the board of trustees or its agent, collateral in the form of cash, letters of credit, bonds, or other interest-bearing notes and obligations of the United States or federal instrumentalities which are eligible for investment by the board of trustees, in an amount not less than one hundred two per cent of the market value of the loaned securities, as determined by the board of trustees. The system shall have a security interest in the collateral to secure borrower's obligations under the agreement. The board of trustees shall not be obligated to return the collateral or any part thereof to the borrower, except upon borrower's delivery to the board or its agent of securities identical to the loaned securities, as provided in paragraph (2). The board of trustees or its designated agent shall monitor the market value of the loaned securities daily, and if, on any business day, the amount of the collateral deposited by the borrower is less than one hundred two per cent of the market value of the loaned securities on that day, the borrower shall immediately deposit with the board or its agent additional collateral in the form of cash, letters of credit, bonds, or other interest-bearing notes and obligations of the United States or federal instrumentalities which are eligible for investment by the board of trustees. Such additional collateral, together with the collateral previously on deposit, shall be in an amount not less than one hundred two percent of the market value of the loaned securities at the time of such deposit;
- (4) The board of trustees, at its election, may use or invest any collateral delivered by a borrower to the board or its agent pursuant to the agreement, and any income and profits earned on the collateral shall be retained for the benefit of the system. Any investment of the collateral shall be subject to section 88-119;
- (5) Until the termination of the loan, the borrower may exercise all the incidents of ownership of loaned securities, including the right to transfer the loaned securities to others and vote or otherwise consent as a holder of such securities; provided that the borrower shall be obligated to the board of trustees for all dividends and distributions made with respect to the loaned securities during the period of the agreement, including, without limitation, cash, stock or property dividends or distributions, interest payments, and subscription rights;
- (6) In the event that the borrower, at the termination of the loan period, fails to deliver to the board of trustees certificates for identical securities which are of the same class and issue as the loaned securities, the borrowers shall forfeit to the system the collateral deposited."

**SECTION 2.** New statutory material is underscored.\*

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

(Approved June 19, 1981.)

**ACT 213**

**H.B. NO. 300**

A Bill for an Act Relating to Offenses Against the Person.

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

**SECTION 1.** Section 707-700, Hawaii Revised Statutes, is amended by amending the definition of "forcible compulsion" to read as follows:

- "(11) "Forcible compulsion" means the use of or attempt to use one or more of the following to overcome a person:
  - (a) A threat, express or implied, that places a person in fear of bodily injury to the individual or another person, or in fear that the person or another person will be kidnapped;
  - (b) A dangerous instrument; or
  - (c) Physical force."

**SECTION 2.** Section 707-730, Hawaii Revised Statutes, is amended to read as follows:

**"§707-730 Rape in the first degree.** (1) A person commits the offense of rape in the first degree if:

- (a) The person intentionally engages in sexual intercourse, by forcible compulsion, with another person and:
    - (i) The other person is not, upon the occasion, his voluntary social companion who had within the previous thirty days permitted him sexual intercourse of the kind involved; or
    - (ii) Recklessly inflicts serious bodily injury upon the other person; or
  - (b) The person intentionally engages in sexual intercourse with another person who is less than fourteen years old and he recklessly inflicts serious bodily injury upon the other person.
- (2) Rape in the first degree is a class A felony."

**SECTION 3.** Section 707-731, Hawaii Revised Statutes, is amended to read as follows:

**"§707-731 Rape in the second degree.** (1) A person commits the offense of rape in the second degree if:

- (a) The person intentionally engages in sexual intercourse by forcible compulsion with another person; or
- (b) The person intentionally engages in sexual intercourse with another person who is less than fourteen years old.

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

(2) Rape in the second degree is a class B felony."

SECTION 4. Section 707-732, Hawaii Revised Statutes, is amended to read as follows:

"**§707-732 Rape in the third degree.** (1) A person commits the offense of rape in the third degree if the person intentionally engages in sexual intercourse with another person who is mentally defective, mentally incapacitated, or physically helpless.

(2) Rape in the third degree is a class C felony."

SECTION 5. Section 707-733, Hawaii Revised Statutes, is amended to read as follows:

"**§707-733 Sodomy in the first degree.** (1) A person commits the offense of sodomy in the first degree if:

- (a) The person intentionally, by forcible compulsion, engages in deviate sexual intercourse with another person or causes another person to engage in deviate sexual intercourse, and:
  - (i) The other person was not, upon the occasion, his voluntary social companion who had within the previous thirty days permitted him sexual contact of the kind involved; or
  - (ii) Recklessly inflicts serious bodily injury upon the other person; or
- (b) The person intentionally engages in deviate sexual intercourse with another person who is less than fourteen years old, or causes such person to engage in deviate sexual intercourse, and he recklessly inflicts serious bodily injury upon the person.

(2) Sodomy in the first degree is a class A felony."

SECTION 6. Section 707-734, Hawaii Revised Statutes, is amended to read as follows:

"**§707-734 Sodomy in the second degree.** (1) A person commits the offense of sodomy in the second degree if:

- (a) The person intentionally, by forcible compulsion, engages in deviate sexual intercourse with another person or causes another person to engage in deviate sexual intercourse; or
  - (b) The person<sup>†</sup> engages in deviate sexual intercourse with another person who is less than fourteen years old.
- (2) Sodomy in the second degree is a class B felony."

SECTION 7. Section 707-735, Hawaii Revised Statutes, is amended to read as follows:

"**§707-735 Sodomy in the third degree.** (1) A person commits the offense of sodomy in the third degree if the person intentionally engages in deviate sexual intercourse with another person, or causes another person to engage in deviate sexual intercourse, and the other person is mentally defective, mentally incapacitated, or

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<sup>†</sup>In section prior to amendment, here appeared the word "intentionally," which was not set forth in this act at all.

physically helpless.

(2) Sodomy in the third degree is a class C felony."

SECTION 8. Section 707-740, Hawaii Revised Statutes, is repealed.

SECTION 9. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 10. This Act shall take effect upon its approval.

(Approved June 19, 1981.)

ACT 214

H.B. NO. 339

A Bill for an Act Relating to Ballots.

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

SECTION 1. Section 12-21, Hawaii Revised Statutes, is amended to read as follows:

"**§12-21 Official party ballots.** There shall be only one primary or special primary ballot for each party qualifying under the provisions of section 11-61 or 11-62.

The primary or special primary ballot shall be clearly designated as such, and shall also be designated according to party. The names of candidates shall be arranged as provided for in section 11-115; provided that in elections using the electronic voting system, the names of all candidates seeking the same office shall be printed on the same side of the ballot card; provided further that if the names of all candidates seeking the same office exceed the maximum number of voting positions on a single side of a ballot card, such names shall then be arranged and listed on both sides of the ballot card or on separate ballot cards.

The chief election officer or the county clerk, in the case of county elections, shall approve printed samples or proofs of the respective party ballots as to uniformity of size, weight, shape, and thickness prior to final printing of the official ballots."

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 19, 1981.)

ACT 215

H.B. NO. 582

A Bill for an Act Relating to Court Monitoring of Guardianships.

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

SECTION 1. Section 560:5-308A, Hawaii Revised Statutes, is amended to

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 216

read as follows:

**"§560:5-308A Periodic reports on status of ward.** The court shall require the guardian of the person to file a report as to the status of the ward on a periodic basis, at least annually. Such report shall describe the ward's residential arrangements, care and treatment services, educational and training programs, physical, mental and social condition, and such other matters as the court may direct for the period involved. Based upon such reports, the court may, upon its own motion, commence proceedings pursuant to section 560:5-307 for the removal of a guardian, appointment of a successor, determining that the ward is no longer incapacitated, or making orders modifying in any respect the order of appointment."

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 19, 1981.)

ACT 216

H.B. NO. 588

A Bill for an Act Relating to Notices in Guardianship Proceedings.

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

SECTION 1. Section 560:5-309, Hawaii Revised Statutes, is amended to read as follows:

**"§560:5-309 Notices in guardianship proceedings.** (a) In a proceeding for the appointment or removal of a guardian of the person of an incapacitated person other than the appointment of a temporary guardian or temporary suspension of a guardian, notice of the time and place of hearing shall be given by the petitioner to each of the following:

- (1) The ward or the person concerning whom the proceeding has been commenced and the ward or person's spouse, legal parents and adult children;
  - (2) Any person who is serving as the guardian of the ward or person's estate or who has care and custody of the ward or person; and
  - (3) In case no other person is notified under (1), at least one of the ward or person's closest adult relatives, if any can be found.
- (b) Notice shall be served personally on the alleged incapacitated person the person's spouse, the person's legal parents, and the person's adult children, if they can be found within the State. Notice to such of those who cannot be found within the State and to all other persons except the alleged incapacitated person shall be given as provided in section 560:1-401. Waiver of notice by the person alleged to be incapacitated is not effective unless the person attends the hearing or the person's waiver of notice is confirmed in an interview with the individual sent by the family

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

court to interview the person. Except as provided in section 560:5-303, representation of the alleged incapacitated person by a guardian ad litem is not necessary.

(c) Grandparents shall be notified in all proceedings involving minors."

**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 19, 1981.)

### ACT 217

H.B. NO. 1339

A Bill for an Act Relating to Election Campaign Contributions and Expenditures.

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

**SECTION 1.** Section 11-191, Hawaii Revised Statutes, is amended by amending the definition of "committee" to read:

"(6) "Committee" means:

- (A) Any organization or association which, or any individual who, accepts a contribution or makes an expenditure for or against any candidate, individual who files for nomination at a later date and becomes a candidate, or party, with or without the authorization of the candidate, individual, or party, or who accepts a contribution or makes an expenditure for or against any question or issue which appears or is reasonably certain to appear on the ballot at the next applicable election;
- (B) Any organization or association which, or any individual who, raises or holds money or anything of value for a political purpose, with or without the consent or knowledge of any candidate, individual who files for nomination at a later date and becomes a candidate, or any party, and which subsequently contributes the money or anything of value to, or makes expenditures in behalf of, a candidate, individual who files for nomination at a later date and becomes a candidate, or party;
- (C) Notwithstanding any of the foregoing, the term "committee" shall not include any individual making a contribution or expenditure of his own funds or anything of value which he originally acquired for his own use and not for the purpose of evading any provision of this subpart.
- (D) Any committee as defined in section (A) above, which makes expenditures in aggregate more than \$1,000 per election to influence the nomination and election of individuals to public office or the outcome of ballot questions or issues, shall file reports as required by this chapter."

[Revisor's note. SECTION 2 is nonexistent.]

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

**ACT 218**

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

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

(Approved June 19, 1981.)

**ACT 218**

**H.B. NO. 1341**

A Bill for an Act Relating to Election Campaign Contributions and Expenditures.

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

**SECTION 1.** Section 11-194, Hawaii Revised Statutes, is amended to read as follows:

**“§11-194 Registration.** Each candidate, committee, or party shall file an organizational report as set forth in section 11-196, no later than 4:30 p.m. on or before the day of filing for nomination or election; provided that any committee organized after the last day for filing for nomination or election shall file an organizational report within ten days from the date the committee receives any contribution, the aggregate amount of which is more than \$100.”

**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 19, 1981.)

**ACT 219**

**H.B. NO. 1360**

A Bill for an Act Relating to Employment Security.

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

**SECTION 1.** Chapter 383, part VII, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**“§383- Ineligibility for extended benefits when paid under an interstate claim in a state where extended benefit period is not in effect.** (a) Except as provided in subsection (b), an individual shall not be eligible for extended benefits for any week if:

- (1) Extended benefits are payable for such week pursuant to an interstate claim filed in any state under the interstate benefit payment plan, and
- (2) No extended benefit period is in effect for such week in such state.

(b) Subsection (a) shall not apply with respect to the first two weeks for which extended benefits are payable (determined without regard to this section) pursuant to an interstate claim filed under the interstate benefit payment plan to the individual from the extended benefit account established for the individual with respect to the benefit year.”

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

**SECTION 2.** New statutory material is underscored.\***SECTION 3.** This Act shall take effect upon its approval.

(Approved June 19, 1981.)

**ACT 220****H.B. NO. 1765**

A Bill for an Act Relating to the Kamehameha Day Celebration Commission.

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

**SECTION 1.** Section 8-5, Hawaii Revised Statutes, is amended to read as follows:

**"§8-5 King Kamehameha celebration commission.** There shall be a commission to be known as the King Kamehameha celebration commission which shall consist of twenty-two members to be appointed by the governor in the manner provided by section 26-34, such appointments to be made from the following organizations, with at least one member from each organization:

- (1) The Order of Kamehameha of Hawaii;
- (2) Ahahui Kaahumanu;
- (3) Hale o Na Alii o Hawaii Ahahui poo;
- (4) Daughters and Sons of Hawaiian Warriors;
- (5) Daughters of Hawaii;
- (6) Kamehameha Schools Alumni Association;
- (7) Hui Opio;
- (8) State Association of Hawaiian Civic Clubs;
- (9) Airport Lei Sellers' Association;
- (10) Waimanalo Homesteaders' Association;
- (11) Kapahulu Music Club;
- (12) Nanakuli Homesteaders' Association;
- (13) Native Sons and Daughters of Hawaii;
- (14) Hui Holo Pa-u Me Na Hoa Hololio;
- (15) Papakolea Community Association;
- (16) Hui Kukakuka.

In addition the governor shall appoint one member from each of the following islands: Kauai, Maui, Molokai, Oahu and Hawaii. Each of these members shall be a resident of the respective island that he or she represents.

The terms of all appointments shall be four years. The governor shall appoint the chairman of the commission from among the members.

The members of the King Kamehameha celebration commission shall serve without compensation, but shall be entitled to reimbursement for travel and necessary expenses while attending meetings and while in discharge of their duties. The funds appropriated for the purposes hereof shall be disbursed on warrants of the State comptroller, based on vouchers approved by the chairman of the commission.

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 221

The commission shall have charge of all arrangements for the celebration each year generally observed throughout Hawaii Nei on June 11, to commemorate the memory of the great Polynesian Hawaiian warrior and statesman King Kamehameha I, who united the Hawaiian Islands into the Kingdom of Hawaii, and recognized as such under section 8-1. The commission may appoint committees and delegate such powers and duties to such committees as it shall determine.

The commission may accept donations of money and personal property. There is created in the treasury of the State a special fund to be known as the King Kamehameha celebration fund, into which all monies donated or appropriated by the legislature to the commission shall be deposited and from which the expenses of the commission to carry out the purpose of this section shall be paid. The monies appropriated by the legislature to the King Kamehameha celebration fund and not expended within the fiscal year or years shall not lapse but such monies shall be retained in said fund for use by the commission in subsequent years. Disbursement of monies from said fund shall be by State warrants issued in accordance with applicable laws and regulations and based on vouchers signed by the chairman of the commission.

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 shall adopt rules pursuant to chapter 91 necessary for the purpose of this section."

**SECTION 2.** New statutory material is underscored.

**SECTION 3.** This Act shall take effect upon its approval. The rules required to be adopted by the amendment in Section 1 of the Act shall be adopted within one year of the effective date of this Act.

(Approved June 19, 1981.)

## ACT 221

H.B. NO. 1769

A Bill for an Act Relating to Cemeteries and Mortuaries.

*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, 1979:

(1) Chapter 443 (Collection Agencies Board)

(2) Chapter 467A (Rental Agencies)

(b) The following chapters are hereby repealed effective December 31, 1980:

(1) Chapter 436 (Board of Examiners for Abstract Makers)

(2) Chapter 468J (Travel Agencies)

(3) Chapter 443 (Collection Agencies Board)

(c) The following chapters are hereby repealed effective December 31, 1981:

- [(1)] Chapter 441 (Cemetery Board)
- (2) (1) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
- [(3)] (2) Chapter 457B (Board of Examiners of Nursing Home Administrators)
- [(4)] (3) Chapter 458 (Board of Dispensing Opticians)
- [(5)] (4) Chapter 459 (Board of Examiners in Optometry)
- [(6)] (5) Chapter 465 (Board of Certification for Practicing Psychologists)
- [(7)] (6) Chapter 468E (Board of Speech Pathology and Audiology)
- [(8)] (7) Chapter 452 (Board of Massage)

(d) The following chapters are hereby repealed effective December 31, 1982:

- (1) Chapter 436D (Board of Acupuncture)
- (2) Chapter 437B (Motor Vehicle Repair Industry Board)
- (3) Chapter 442 (Board of Chiropractic Examiners)
- (4) Chapter 448E (Board of Electricians and Plumbers)
- (5) Chapter 464 (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
- (6) Chapter 466 (Board of Public Accountancy)
- (7) Chapter 467 (Real Estate Commission)
- (8) Chapter 448H (Elevator Mechanics Licensing Board)

(e) The following chapters are hereby repealed effective December 31, 1983:

- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448 (Board of Dental Examiners)
- (3) Chapter 453 (Board of Medical Examiners)
- (4) Chapter 457 (Board of Nursing)
- (5) Chapter 460 (Board of Osteopathic Examiners)
- (6) Chapter 460J (Pest Control Board)
- (7) Chapter 461 (Board of Pharmacy)

(f) The following chapters are hereby repealed effective December 31, 1984:

- (1) Chapter 455 (Board of Examiners in Naturopathy)
- (2) Chapter 463E (Podiatry)
- (3) Chapter 438 (Barbering, Practice of)

[[(4)]] Chapter 439 (Beauty Culture)

(g) The following chapters are hereby repealed effective December 31, 1985:

- (1) Chapter 437 (Motor Vehicle Industry Licensing Board)[.]
- (2) Chapter 440 (Boxing Commission)

(h) The following chapters are hereby repealed effective December 31, 1986:

- (1) Chapter 447 (Dental Hygienists)

[[(2)]] Chapter 463 (Board of Private Detectives and Guards)

[[(3)]] Chapter 471 (Board of Veterinary Examiners)[.]

(i) The following chapter is hereby repealed effective December 31, 1987:

- (1) Chapter 441 (Cemeteries and Mortuaries)"

SECTION 2. Section 441-1, Hawaii Revised Statutes, is amended by repealing the definitions of "Board," "Cemetery salesmen," and "Pre-need funeral salesman," and adding the definitions of "Director" and "Department" to read as follows:

"Director" means the director of the department of regulatory agencies.

"Department" means the department of regulatory agencies."

SECTION 3. Section 441-18, Hawaii Revised Statutes, is repealed.

SECTION 4. Section 441-19, Hawaii Revised Statutes, is amended to read as follows:

**“§441-19 Powers and duties of director.** In addition to any other duties and powers granted by this chapter the director shall, pursuant to chapter 91:

- (1) Grant licenses to mortuary, cemetery, and pre-need funeral authorities pursuant to this chapter;
- (2) Make, amend, or repeal such rules and regulations as the director deems proper to fully effectuate this chapter and carry out the purpose thereof, which purpose is the protection of the general public in its acquisitions of cemetery property, pre-need interment services, at-need funeral services, and pre-need funeral services. The rules and regulations may forbid acts or practices deemed by the director to be detrimental to the accomplishment of the purpose of this chapter, and the rules and regulations may require mortuary, cemetery, and pre-need funeral authorities to make reports to the director containing such information as will better enable the director to enforce this chapter and the rules and regulations, or as will better enable the director from time to time to amend the rules and regulations to more fully effectuate the purpose of this chapter, and further, the rules and regulations may require mortuary, cemetery, and pre-need funeral authorities to furnish reports to their clients containing such matters of information as the director deems necessary to promote the purpose of this chapter; provided that this enumeration of specific matters which may properly be made the subject of rules and regulations shall not be construed to limit the director's broad general power to make all rules and regulations necessary to fully effectuate the purpose of this chapter;
- (3) Enforce this chapter and rules and regulations adopted pursuant thereto;
- (4) Suspend or revoke any license for any cause prescribed by this chapter, or for any violation of the rules and regulations, and refuse to grant any license for any cause which would be ground for revocation or suspension of a license;
- (5) Report to the governor annually and at such other times and in such other manner as he may require concerning the director's activities;
- (6) Publish and distribute pamphlets and circulars containing such information as the director deems proper to further the accomplishments of the purpose of this chapter;
- (7) Investigate the actions of any person acting in the capacity of a licensee under this chapter if there is reason to believe that there may be a violation of this chapter."

SECTION 5. Section 441-20, Hawaii Revised Statutes, is amended to read as follows:

**“§441-20 License required to act as mortuary, cemetery, or pre-need funeral authority.** No person shall act as a mortuary, cemetery, or pre-need funeral authority

without a license previously issued by the director in compliance with this chapter and the rules and regulations of the director; provided, that the director shall exempt any cemetery authority upon its proof satisfactory to the director that it will not make any additional interments."

SECTION 6. Section 441-21, Hawaii Revised Statutes, is amended to read as follows:

**"§441-21 No mortuary, cemetery, or pre-need funeral authority license issued when.** No mortuary, cemetery, or pre-need funeral authority license shall be issued:

- (1) To any person unless he has filed an application therefor;
- (2) To any person who does not possess financial integrity;
- (3) To any person unless it is a religious institution, corporation, county, or any association which has a perpetual existence;
- (4) To any person unless he files with the director a bond as required by section 441-22;
- (5) To any person failing to establish pre-need trusts and perpetual care funds as required by this chapter."

SECTION 7. Section 441-22, Hawaii Revised Statutes, is amended to read as follows:

**"§441-22 Bond.** Each mortuary, cemetery, or pre-need funeral authority licensed hereunder, except as otherwise provided in section 441-22.1, shall file and maintain with the director a bond (1) in the penal sum of \$50,000 for each new license, and for the renewal of a license for a mortuary, cemetery, or pre-need funeral authority whose gross income as a mortuary, cemetery, or pre-need funeral authority for the taxable year preceding the year of renewal totalled \$50,000 or more, and (2) in the penal sum of \$5,000 for any other cemetery authority, all of such bonds to be issued by a surety company authorized to do business in the State, and running to the State. The bond shall be conditioned that the mortuary, 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, at-need funeral services, or pre-need funeral services all sums of money that may properly be due them. In addition to any other remedy, every person sustaining any damage resulting from a breach of the conditions of the bond may sue the surety for the recovery of any damages sustained by such person. The liability of the surety shall not exceed \$50,000 or \$5,000 as the case may be, for each licensee. The bond shall be continuous in form and remain in full force and effect and shall run concurrently with the license period and for any renewals thereof, unless terminated or canceled by the surety. Termination or cancellation 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. The director shall forthwith give notice thereof to the mortuary, cemetery, or pre-need funeral authority affected by the termination or cancellation, which notice shall be by registered or certified mail, with request for return receipt, and shall be addressed to the licensees at the addresses shown on the records of the department. The license of any licensee shall be suspended upon termination or cancellation of the bond, unless prior thereto, a new bond has been filed with the director. The form of the bond shall be approved by the director."

## ACT 221

SECTION 8. Section 441-22.1, Hawaii Revised Statutes, is amended to read as follows:

**“§441-22.1 Exemption.** The director shall exempt any cemetery authority from the bonding requirement and the fee requirements for license, renewal and reinstatement upon proof satisfactory to the director that it does not actively engage in pre-need sales, or sell for financial profit.”

SECTION 9. Section 441-23, Hawaii Revised Statutes, is amended to read as follows:

**“§441-23 Revocation, suspension, and renewal of authority licenses.** The director may revoke any authority license, or suspend the right of the licensee to use the license, or refuse to renew any such license for any of the following causes:

- (1) Any dishonest or fraudulent act as a mortuary, cemetery, or pre-need funeral authority which causes substantial damage to another;
- (2) Making repeated misrepresentations or false promises through advertising or otherwise;
- (3) Wilful violation of this chapter or the rules and regulations promulgated pursuant thereto;
- (4) Commingling the money or other property of others with his own;
- (5) Adjudicated insane or incompetent;
- (6) Selling or offering to sell any cemetery property, pre-need interment, funeral services, or pre-need funeral services based on speculation or promises of profit from resale.

No license 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 10. Section 441-24, Hawaii Revised Statutes, is amended to read as follows:

**“§441-24 Inspection of cemetery or pre-need funeral authority books; annual exhibits.** The books, records, and papers of every cemetery authority whether or not a corporation, which operates or claims to operate a perpetual care cemetery, and of every pre-need funeral authority shall be subject to examination by the director to the same extent and in the same manner as may be from time to time provided for corporations in section 416-95, and every cemetery authority operating a perpetual care cemetery, and every pre-need funeral authority shall submit such annual exhibits as may be required by the director in order to furnish information as to whether or not the cemetery or pre-need funeral authority has complied with this chapter.”

SECTION 11. Section 441-25, Hawaii Revised Statutes, is amended to read as follows:

**“§441-25 License not required to act as cemetery or pre-need funeral salesman.**

Chapter 467, relating to real estate brokers and salesmen, shall not be applicable to cemetery salesmen.”

SECTION 12. Section 441-26, Hawaii Revised Statutes, is repealed.

SECTION 13. Section 441-27, Hawaii Revised Statutes, is repealed.

SECTION 14. Section 441-28, Hawaii Revised Statutes, is repealed.

SECTION 15. Section 441-29, Hawaii Revised Statutes, is amended to read as follows:

**“§441-29 Application fees.** Every applicant for any license under this chapter shall file an application with the director in such form and setting forth such information as may be prescribed or required by the director and shall furnish such additional information bearing upon the issuance of the license as the director requires. Every application shall be sworn to before an officer authorized to administer oaths.

Every application shall be accompanied by an application fee of \$10.”

SECTION 16. Section 441-30, Hawaii Revised Statutes, is amended to read as follows:

**“§441-30 Form of licenses.** The form of every license shall be prescribed by the director, and shall be issued in the name of the department, and signed by the director.”

SECTION 17. Section 441-31, Hawaii Revised Statutes, is amended to read as follows:

**“§441-31 Fees, original license and biennial renewals, refunds.** (a) The fee for a mortuary, cemetery, or pre-need funeral authority original license and reinstatement of a suspended license shall be \$200 and biennial renewal fee shall be \$400 except as otherwise provided in section 441-22.1.

The biennial renewal fee shall be paid to the department on or before December 31 of each odd-numbered year. Failure, neglect or refusal of any duly licensed mortuary, cemetery, or pre-need funeral authority to pay the biennial renewal fee shall constitute a forfeiture of his license. Any such license may be restored upon written application therefor within one year of such date and the payment of the delinquent fees plus an amount equal to ten per cent thereof.

(b) A fee of \$5 shall be charged for the reissuance of any lost license or for the reissuance of license when there has been a change in the licensee's name.

(c) All fees and other moneys collected or received under this chapter shall be deposited by the director of regulatory agencies with the director of finance to the credit of the general fund.”

SECTION 18. Section 441-33, Hawaii Revised Statutes, is repealed.

SECTION 19. Section 441-37, Hawaii Revised Statutes, is amended to read as follows:

**“§441-37 Fund required; who may act as administrator.** Every cemetery authority operating a perpetual care cemetery shall establish a perpetual care fund, which shall be administered by a nonprofit corporation or by a perpetual care trust.

(1) If the administrator shall be a nonprofit corporation, the majority of the members of its board of directors shall not be affiliated with the cemetery authority which created the perpetual care fund.

(2) If the administrator shall be a perpetual care trust, the trustee thereof shall

be either (A) a trust company authorized to do business in the State, or (B) a board of trustees appointed by the governing body of the cemetery authority consisting of three or more members, who shall be residents of the State, and the majority of which shall not be affiliated with the cemetery authority which created the perpetual care fund.

An executed copy of the declaration of trust, any amendments thereto, and notice of the appointment of any successor trustee thereunder shall be filed with the director."

SECTION 20. Section 441-43, Hawaii Revised Statutes, is amended to read as follows:

**"§441-43 Inspection, regulation, and supervision of administrator.** Any administrator of a perpetual care fund, other than a trust company, shall be subject to inspection, supervision, and regulation by the director to the same extent and in the same manner as may be from time to time provided by law for the inspection, supervision, and regulation of trust companies doing business in the State."

SECTION 21. Section 441-44, Hawaii Revised Statutes, is amended to read as follows:

**"§441-44 Administrator's account; enforcement by attorney general.** The administrator shall annually file with the director an account which shall be made in such form as shall be prescribed by the director. The director shall notify the attorney general of any failure on the part of the administrator to comply with sections 441-39 to 441-44, or of the instrument creating the fund, and the attorney general may take such action as he deems appropriate."

SECTION 22. Section 441-45, Hawaii Revised Statutes, is amended to read as follows:

**"§441-45 Penalty.** Any person who violates, or omits to comply with any of the provisions of this chapter shall be fined not more than \$1,000, unless the violation relates to pre-need trusts or perpetual care funds in which case the penalties prescribed by sections 401-20 or 401-21 shall apply."

SECTION 23. Chapter 441, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§441- Sales contracts.** Any sales contracts shall, at a minimum, explain the trust, pre-need fund, and refund provisions of the contract and the salesman shall explain what related purchases, if any, will be necessary."

SECTION 24. The director of the department of regulatory agencies shall review the sunset evaluation report on chapter 441 which was prepared by the legislative auditor and submitted to the legislature in February 1981. Subsequently, the director shall prepare a report to the legislature which reviews the auditor's evaluation and recommendations in light of the passage of this Act and the adoption of rules and regulations pursuant to this Act. The director shall specifically address the following concerns:

(1) Are the required bonds sufficient to adequately protect the consumers' interests? If not, what would be an appropriate bonding requirement?

(2) Is it necessary to license mortuaries?

(3) Is the thirty percent acquisition cost provision of section 441-2† logically established and not excessive?

(4) Should the department be able to audit the licenses at the licensees' expense?

(5) Should the contingent liabilities of the licensee be reflected in the financial statements? If so, how?

(6) Should the role of the administrator of a trust be altered to better protect the interest of the consumer and made more consistent with the traditional trust format?

(7) Should the income from the corpus of the pre-need trusts be added to the trust to ensure adequate funds to meet future expenses?

The director shall submit the report, and recommendations for implementation of his findings and recommendations, to the legislature prior to the convening of the 1982 session.

**SECTION 25.** Statutory material to be repealed is bracketed. New material is underscored.\*

**SECTION 26.** This Act shall take effect upon its approval.

(Approved June 19, 1981.)

ACT 222

H.B. NO. 541

A Bill for an Act Relating to Minors.

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

**SECTION 1.** Section 571-22, Hawaii Revised Statutes, is amended to read as follows:

**"§571-22 Waiver of jurisdiction; transfer to other courts.** (a) The court may waive jurisdiction and order a minor or adult held for criminal proceedings after full investigation and hearing where the person during the person's minority, but on or after the person's sixteenth birthday, is alleged to have committed an act which would constitute a felony if committed by an adult, and the court finds there is no evidence the person is committable to an institution for the mentally defective or retarded or the mentally ill, is not treatable in any available institution or facility within the State designed for the care and treatment of children, or that the safety of the community requires that the person continue under judicial restraint for a period extending beyond the person's minority.

(b) The factors to be considered in deciding whether jurisdiction should be waived under this section are as follows:

(1) The seriousness of the alleged offense.

(2) Whether the alleged offense was committed in an aggressive, violent, pre-

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†So in original.

\*Except as to Section 1, the text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

- meditated, or wilful manner.
- (3) Whether the alleged offense was against persons or against property, greater weight being given to offenses against persons especially if personal injury resulted.
  - (4) The desirability of trial and disposition of the entire offense in one court when the minor's associates in the alleged offense are adults who will be charged with a crime.
  - (5) The sophistication and maturity of the minor as determined by consideration of the minor's home, environmental situation, emotional attitude, and pattern of living.
  - (6) The record and previous history of the minor, including previous contacts with the family court, other law enforcement agencies, courts in other jurisdictions, prior periods of probation to this court, or prior commitments to juvenile institutions.
  - (7) The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the minor (if the minor is found to have committed the alleged offense) by the use of procedures, services, and facilities currently available to the family court.
  - (8) All other relevant matters.
- (c) If, incident to a hearing at which the person's prior court record under section 571-11(1) is established, the court determines that a minor of at least the age of sixteen has been charged with an act which would constitute a class A felony if committed by an adult and that the person is not committable to an institution for the mentally defective or retarded or the mentally ill, the court shall waive jurisdiction and order the minor held for criminal proceedings, if such minor has been previously determined by a court to be a law violator by:
- (1) Committing any act involving force or violence or the threat of force or violence and which is prohibited by law as being a class A felony; or
  - (2) Committing two or more acts within the two years preceding the date of the offense for which the person is presently charged which are each prohibited by law as being a felony.
- (d) Transfer of a minor for criminal proceedings terminates the jurisdiction of the court over the minor with respect to any subsequent acts which would otherwise be within the court's jurisdiction under section 571-11(1) and thereby confers jurisdiction over the minor to a court of competent criminal jurisdiction.
- (e) If criminal proceedings instituted under subsections (a) and (d) of this section result in an acquittal or other discharge of the minor involved, no petition shall thereafter be filed in any family court based on the same facts as were alleged in the criminal proceeding.
- (f) A minor shall not be subject to criminal prosecution based on the facts giving rise to a petition filed under this chapter except as otherwise provided in this chapter.
- (g) Where the petition has been filed in a circuit other than the minor's residence, the judge may in the judge's discretion transfer the case to the family court of the circuit of the minor's residence.
- (h) When a petition is filed bringing a minor before the court under section 571-11(1) and (2), and the minor resides outside of the circuit, but within the State,

the court may after a finding as to the allegations in the petition certify the case for disposition to the family court having jurisdiction where the minor resides. Thereupon, such court shall accept the case and may dispose of the case as if the petition was originally filed in that court. Whenever a case is so certified, the certifying court shall forward to the receiving court certified copies of all pertinent legal and social records."

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

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

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

(Approved June 20, 1981.)

## ACT 223

H.B. NO. 788

A Bill for an Act Relating to Veterans Rights and Benefits.

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

**SECTION 1.** Section 363-1, Hawaii Revised Statutes, is amended to read:

**"§363-1 Definitions.** Unless the context clearly requires a different meaning, when used in this chapter:

"Veteran" means any person who has served in any of the armed services of the United States, or any person who is now a citizen of the United States who has served in any of the armed services of any country which was an ally of the United States in any war or campaign in which the United States was also engaged.

"Dependent" of a veteran means any person who received from a veteran his principal support prior to entry of the veteran into any of the armed services. It includes a dependent of a person currently serving in the service and a former dependent of a deceased veteran and of a person who has died in such service.

"Family" of a veteran means members of the immediate family of the veteran, or of a person currently serving in any of the armed services, or of a person who has died in the service, or of a deceased veteran.

"Department" means the department of social services and housing."

**SECTION 2.** Section 363-11, Hawaii Revised Statutes, is amended to read:

**"§363-11 Special housing for disabled veterans.** The department 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

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## **ACT 224**

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 social services and housing in accordance with this section, to the extent permitted by the applicable appropriation."

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

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

(Approved June 20, 1981.)

## **ACT 224**

H.B. NO. 1931

A Bill for an Act Relating to the Work Release Plan.

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

**SECTION 1.** Section 352-16, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Employment under such a work release plan may be at a wage less than the minimum wage authorized in chapter 387; provided that no more than five hours of a person's work week shall be paid at wages less than the minimum wage."

**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 20, 1981.)

## **ACT 225**

H.B. NO. 511

A Bill for an Act Relating to Public Lands.

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

**SECTION 1. Findings.** The legislature finds that, despite documented evidence which clearly indicates that the various governments of Hawaii since monarchical days have expressed an intent to grant long term tenure to the persons who have resided in Maunalaha Valley (Makiki) for many decades, these families at present only have leases with thirty-day relocation restrictions. Such thirty-day restrictions impose undue hardship when these people attempt to obtain home improvement financing, nor can they make other long term commitments and plans which are normally available to home owners in Hawaii. The legislature finds that there is a moral obligation to offer the residents of Maunalaha Valley an opportunity to nego-

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

tiate long term leases (not to exceed sixty-five years) with the department of land and natural resources for the parcels upon which their homes are presently located.

SECTION 2. The department of land and natural resources is hereby authorized to negotiate and enter into long term residential leases not to exceed sixty-five years in duration with persons who meet the following criteria:

- (1) At the time of enactment of this Act reside on a parcel or parcels of land listed in Section 3, or have permits allowing them to reside on such land, or are descendants of persons who lawfully resided on such land before 1920; and
- (2) Have built homes on such land for use as their own residence prior to 1940 pursuant to government authority; and
- (3) Can prove that the various governments of Hawaii have expressed an intent to grant them long term tenure.

SECTION 3. The lands eligible for long term residential lease negotiations under the provisions of this Act are limited to those located in tax map key plats 1-2-5-19 and 1-2-5-20, and for which valid permits are on record in the department of land and natural resources at the time of enactment of this Act.

SECTION 4. Any other law to the contrary notwithstanding, including chapter 171, Hawaii Revised Statutes, the department of land and natural resources is hereby authorized to negotiate and enter into lease agreements in accordance with the provisions and limitations of this Act provided that the authority granted by this Act shall expire (1) when leases have been negotiated and recorded in the bureau of conveyances for all parcels meeting the criteria in Section 2 and Section 3, or (2) on January 1, 1983, whichever occurs first.

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

(Approved June 22, 1981.)

ACT 226

S.B. NO. 1471

A Bill for an Act Relating to Conservation and Resources Enforcement Program.

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

SECTION 1. Section 199-4, Hawaii Revised Statutes, is amended to read:

**“§199-4 Board of land and natural resources, police powers.** The board of land and natural resources shall have police powers and may appoint and commission enforcement officers within the conservation and resources enforcement program. Persons appointed and commissioned under this section shall have and may exercise all of the powers and authority of a police officer, including the power of arrest, and shall enforce all state laws and rules, and county ordinances within all state lands, state shorewaters and shores, and county parks; provided that such powers shall remain in force and effect only while in actual performance of their duties which duties shall include off-duty employment when such employment is for other state departments or agencies. These enforcement officers shall consist of personnel whose primary duty will be the enforcement of title 12, entitled “Conservation and Resources,” and the rules promulgated thereunder within the areas under the

jurisdiction of the department of land and natural resources.

An enforcement officer, upon arresting any person for violation of title 12 and rules promulgated thereunder, any† immediately take the person arrested to a police station or before a district judge, or take the name, address, and the number of the fishing, hunting, or other licenses or permits, if any, of the person, and note the violation of such law or rule by the person, and issue him a summons or citation, printed in the form described in section 199-5, warning him to appear and to answer to the charge against him at a certain place and time within seven days after the arrest. Any person failing to obey a summons issued pursuant to this section shall be subject to section 199-6."

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 22, 1981.)

ACT 227

S.B. NO. 2102

A Bill for an Act Relating to the Employment of Attorneys.

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

SECTION 1. Section 103-3, Hawaii Revised Statutes, is amended to read as follows:

"§103-3 Employment of attorneys. No department of the State other than the attorney general, shall make any expenditure of public funds for the employment or retention by contract or otherwise of any attorney for the purpose of representing the State or such department in any litigation, rendering legal counsel to the department, or drafting legal documents for the department; provided that the foregoing provisions shall not apply:

- (1) To the Hawaii housing authority or the public utilities commission;
- (2) To any court or judicial or legislative officer of the State;
- (3) To the legislative reference bureau;
- (4) To such compilation commission as may be constituted from time to time;
- (5) To the real estate commission in any action involving the real estate recovery fund;
- (6) To the Hawaii crime commission;
- (7) To grand jury counsel;
- (8) To the office of Hawaiian affairs;
- [(8)] [(9)] In the event the attorney general, for reasons deemed by him good and sufficient, declines such representation or counsel, or approves

†So in original.

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

such department's expenditures; provided the governor thereupon waives the provision of this section.

For the purpose of this section the term "department of the State" means any department, board, commission, agency, bureau, or officer of the State.

Every attorney employed by any department on a full-time basis, except an attorney employed by the Hawaii crime commission or as a grand jury counsel, shall become a deputy attorney general."

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 22, 1981.)

ACT 228

S.B. NO. 1681

A Bill for an Act Relating to Tort Actions.

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

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

**"PART**

**DESIGN PROFESSIONAL CONCILIATION PANEL**

§ Actions against architects, professional engineers, and surveyors. In any action for damages arising out of the alleged professional negligence of actions performed in the professional practice of a person holding a license as a professional engineer, architect, or surveyor under chapter 464, before the time of filing the complaint, the aggrieved person shall file a claim with the design professional conciliation panel.

§ Design professional conciliation panel; composition, selection, compensation. (a) There are established conciliation panels which shall review and render findings and advisory opinions on the issues of liability and damages in tort claims against professional architects, engineers and surveyors.

(b) A design professional conciliation panel, hereafter called "the panel", shall be formed for each claim filed pursuant to section and after each panel renders its decision or the claim is otherwise disposed of it shall be disbanded. Each design professional conciliation panel shall consist of one chairperson selected from among persons who are familiar with and experienced in the tort claims settlement process, one attorney licensed to practice in the courts of the State and experienced in trial practice, and one architect, engineer or surveyor licensed to practice under chapter 464. The chairperson shall be appointed by the chief justice of the supreme court of Hawaii. The attorney shall be appointed by the chairperson from a list of not less than thirty-five attorneys experienced in trial practice submitted annually by the supreme court. The architect, engineer, or surveyor shall be appointed by the chairperson from a list of not less than thirty-five design professionals submitted annually by the board of registration

of professional engineers, architects, and surveyors.

The chairperson shall preside at the meetings of the panel. The chairperson and all panel members shall be compensated at the rate of \$100 per claim handled which will become payable when the decision of the panel is submitted and shall be paid allowances for travel and living expenses which may be incurred as a result of the performance of their duties and they shall be paid by the department of regulatory agencies from funds collected from the claimant and defendant, to be shared equally.

The office and meeting space, secretarial and clerical assistance, office equipment and office supplies for the board shall be furnished by the department of regulatory agencies.

The board of registration shall prepare a list of architects, engineers, and surveyors along with their respective specialties who shall then be considered consultants to the panel in their respective fields. Panel members may consult with other legal, technical and insurance specialists. Any consultant called by the panel to appear before the panel shall be paid an allowance for travel and living expenses which may be incurred as a result of such person's appearance before the panel. Such costs shall be paid [by]† the department of regulatory agencies.

**§ Review by panel required; notice; presentation of claims.** Any person or his representative claiming that a tort has been committed by the design professional shall file a claim to the department of regulatory agencies before a suit based on the claim may be commenced in any court of this State. All claims shall be submitted to the department of regulatory agencies in writing on forms provided by this department. If the claim is presented orally, the department of regulatory agencies shall reduce the claim to writing. The claimant shall set forth facts upon which the claim is based and shall include the names of all parties against whom the claim is or may be made who are known to the claimant. Within five business days thereafter, the panel shall give notice of the claim, by certified mail, to all architects, engineers or surveyors and others who are or may be parties to the claim and shall furnish copies of written claims to such persons. Such notice shall set forth a date, not more than twenty days after mailing the notice, within which any design professional against whom a claim is made may file a written response to the claim, and a date and time, not less than five days following the date for filing a response, for a hearing of the panel. Such notice shall describe the nature and purpose of the panel's proceedings and shall designate the place of the hearing. The times originally set forth in the notice may be changed by the chairperson, on due notice to all parties, for good cause.

**§ 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. No persons other than the panel, witnesses and consultants called by the panel, and the persons listed in section \_\_\_\_\_ shall be present except with the permission of the chairperson. The panel may, in its discretion, conduct an inquiry of a party,

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†Bracketed word "by" substituted for "be".

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 records 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 the design professional's 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 may sign subpoenas, 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 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, or surveyor 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 which may be incurred as a result of such person's appearance before the panel. Such expenses shall be paid by the department of regulatory agencies to be paid as provided in section . 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 , the panel may encourage the parties to settle or otherwise dispose of the case voluntarily.

**§ Same; persons attending hearings of panel.** Unless excluded or excused by the panel, the following persons shall attend hearings before the panel:

- (1) The party or parties making the claim;
- (2) The design professional or professionals against whom the claim is

made or representatives thereof, other than counsel, authorized to act for such design professionals; and

- (3) Counsel of the parties, if any.

**§ Same; decisions.** (a) Within fifteen days after the completion of a hearing, the panel shall file a written advisory decision with the director of regulatory agencies, who shall thereupon mail copies to all parties concerned, their counsel, the board of registration, and the representative of each design professionals' liability insurance carrier authorized to act for such carrier. The panel shall decide the issue of liability, and shall state its conclusions in writing and after a finding of liability, the panel shall decide the amount of damages, if any, which should be awarded in the case. The decision as to damages shall include in simple, concise terms a division as to which portion of the damages recommended are attributable to economic losses and which to non-economic losses; provided the panel may not recommend punitive damages.

(b) The decisions shall be signed by all members of the panel; provided that any member of the panel may file a written concurring or dissenting opinion.

(c) The advisory decision required by this section need not be filed if the claim is settled or disposed of before the decision is written or filed.

**§ Subsequent litigation; excluded evidence.** The claimant may institute litigation based upon the claim in an appropriate court only after a party to the design professional conciliation panel hearing rejects the decision of the panel.

No statement made in the course of the hearing of the design professional conciliation panel shall be admissible in evidence either as an admission, to impeach the credibility of a witness, or for any other purpose in any trial of the action, provided that such statements may be admissible for the purpose of section hereof. No decision, conclusion, finding, or recommendation of the design professional conciliation panel on the issue of liability or on the issue of damages shall be admitted into evidence in any subsequent trial, nor shall any party to the design professional conciliation panel hearing, or the counsel or other representative of such party, refer or comment thereon in an opening statement, an argument, or at any other time, to the court or jury, provided that such decision, conclusion, finding, or recommendation may be admissible for the purpose of section

**§ Immunity of panel members from liability.** No member of a design professional conciliation panel shall be liable in damages for libel, slander, or other defamation of character of any party to the design professional conciliation panel proceeding for any action taken or any decision, conclusion, finding, or recommendation made by the member while acting as a member of a design professional conciliation panel under this Act.

**§ Statute of limitations tolled.** The filing of the claim with the design professional conciliation panel shall toll any applicable statute of limitations, and any such statute of limitations shall remain tolled until sixty days after the date the decision of the panel is mailed or delivered to the parties.

**§ Duty to cooperate; assessment of costs and fees.** It shall be the duty of every person who files a claim with the design professional conciliation panel, every

architect, engineer, or surveyor against whom such claim is made, to cooperate with the design professional conciliation panel for the purpose of achieving a prompt, fair and just disposition or settlement of such claim, provided that such cooperation shall not prejudice the substantive rights of said persons.

After trial of such claim or after settlement of such claim after suit has been filed, any party may apply to the court in which the suit was brought to have the costs of the action assessed against any party or any insurance carrier or any other person providing professional liability insurance to a party design professional or both, for failure to cooperate with the design professional conciliation panel. The court may award such costs, or a portion thereof, including attorney's fees, witness fees, including those of expert witnesses, costs of discovery and transcribing depositions, and court costs to the party applying therefor.

On application of the director of regulatory agencies, the court may award as a civil penalty against any party or any insurance carrier or other person providing professional liability insurance to a party design professional, or all or any combination of such persons, all or a portion of the costs and expenses of the design professional conciliation panel attributable to a claim involving such persons, if the court finds that such person or persons failed to cooperate with the design professional conciliation panel. Such penalty shall be payable to the general fund.

In determining whether any person has failed to cooperate in good faith, the court shall consider, but is not limited to, the following:

- (1) The attendance of the persons at the hearing of the design professional conciliation panel;
- (2) The extent to which representatives of the parties and counsel representing parties came to panel hearings with knowledge of the claims and defenses and authority to negotiate a settlement or other disposition of the claim;
- (3) The testimony of members of the panel as to the facts of the person's participation in the panel hearing;
- (4) The extent of the person's cooperation in providing the panel with documents and testimony called for by the panel; and
- (5) The reasons advanced by the person so charged for not fully cooperating or negotiating.

**§ Annual report.** The director of regulatory agencies shall prepare and submit to the legislature annually, twenty days prior to the convening of each regular session, a report containing his evaluation of the operation and effects of this chapter. The report shall include a summary of the claims brought before the design professional conciliation panel and the disposition of those claims.

**§** For the purposes of this part, "design professional" means a professional engineer, architect, or surveyor.

**§ Administration of part.** The director of regulatory agencies shall be responsible for the implementation and administration of this part and shall adopt rules, in conformity with chapter 91, necessary for the purposes of this part."

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

(Approved June 22, 1981.)

A Bill for an Act Relating to Housing.

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

SECTION 1. The legislature recognizes that the spiraling costs of housing, the limited availability of land for housing, and the failure of wages to keep pace with inflation, contribute to the inability of many families to purchase their own homes.

The legislature also recognizes the resulting trend of children living in their parents' homes even after reaching adulthood and after marriage. This trend has positive and negative aspects. The situation is negative when it is forced upon persons because there is a scarcity of affordable homes. The trend can be positive, however, because it helps preserve the unity of the extended family.

The purpose of this Act is to assist families to purchase affordable individual living quarters and, at the same time, to encourage the preservation of the extended family.

SECTION 2. Section 46-4, Hawaii Revised Statutes, is amended to read as follows:

**"§46-4 County zoning.** (a) This section and any ordinances or rules and regulations adopted in accordance with it, shall apply only 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 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, or by court order at the suit of the county or the owner or owners of real estate directly affected by the ordinances.

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 subsection (c).

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.

(b) Any final order of a zoning agency established under this section may be appealed to the circuit court of the circuit in which the land in question is found. The appeal shall be in accord with the Hawaii rules of civil procedure.

(c) Neither this section nor any other law, county ordinance, or rule shall prohibit 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.

## **ACT 230**

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 3.** Statutory material to be repealed is bracketed. New material is underscored.\*

**SECTION 4.** This Act shall take effect on January 1, 1982.

(Approved June 22, 1981.)

**ACT 230**

**S.B. NO. 815**

### **A Bill for an Act Relating to the Renter's Income Tax Credit**

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

**SECTION 1.** Section 235-55.7, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Each taxpayer with an adjusted gross income of less than \$20,000 who has paid more than \$1,000 in rent during the taxable year for which the credit is claimed may claim a tax credit of [\$20] \$50 multiplied by the number of qualified exemptions to which [he] the taxpayer is entitled; provided each taxpayer sixty-five years of age or over may claim double the tax credit."

**SECTION 2.** Statutory material to be deleted is bracketed. New material is underscored.

**SECTION 3.** This Act, upon its approval, shall apply to taxable years beginning after December 31, 1980.

(Approved June 23, 1981.)

**ACT 231**

**S.B. NO. 557**

### **A Bill for an Act Relating to Taxation.**

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

**SECTION 1.** 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 \$100 which shall be deducted from income tax liability computed under chapter 235, Hawaii Revised Statutes. The general income tax

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

credit of \$100 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; provided that 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 1981. 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.

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

(Approved June 23, 1981.)

**ACT 232**

S.B. NO. 1662

A Bill for an Act Relating to Religious Holy Days.

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

**SECTION 1.** Chapter 298, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§298- Religious holy days.** The board of education shall release any public school student from school attendance for the purpose of observing religious holy days that fall on regularly scheduled school days, when such release is requested in writing by a parent, guardian or other person having custody or control of such pupil. Actual attendance at observances shall count as an excused absence at the public schools for all purposes where attendance forms the basis of computation."

**SECTION 2.** New statutory material is underscored.\*

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

(Approved June 23, 1981.)

**ACT 233**

H.B. NO. 35

A Bill for an Act Relating to Tax Incentives for Solar Energy Devices.

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

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

SECTION 1. Section 235-12, Hawaii Revised Statutes, is amended to read as follows:

**“§235-12 Solar or wind energy devices and heat pumps; income tax credit.** (a) Each individual and corporate resident taxpayer who files an individual or corporate net income tax return for a taxable year, may claim a tax credit under this section against the Hawaii State individual or corporate net income tax. The tax credit may be claimed for any solar or wind energy device or heat pump in an amount not to exceed ten per cent of the total cost of the device or heat pump; provided that after May 29, 1980, the tax credit shall apply only to the actual cost of the solar or wind energy device or the heat pump, their accessories, and installation and shall not include the cost of consumer incentive premiums unrelated to the operation of the solar or wind energy device or the heat pump offered with the sale of the solar or wind energy device or the heat pump. The credit shall be claimed against net income tax liability for the year in which the solar or wind energy device or the heat pump was purchased and placed in use; provided the tax credit shall be applicable only with respect to solar devices which are erected and placed in service after December 31, 1974 but before December 31, 1985; provided further that in the case of wind energy devices and heat pumps, the tax credit shall be applicable only with respect to wind energy devices and heat pumps which are installed and placed in service after December 31, 1980 but before December 31, 1985. Tax credits which exceed the taxpayer's income tax liability may be used as a credit against his income tax liability in subsequent years until exhausted.

(b) The director of taxation shall prepare such forms as may be necessary to claim a credit under this section. He may also require the taxpayer to furnish reasonable information in order that he may ascertain the validity of the claim for credit made under this section and he may adopt rules necessary to effectuate the purposes of this section pursuant to chapter 91.

(c) As used in this section “solar or wind energy device” means any new identifiable facility, equipment, apparatus, or the like which makes use of solar or wind energy for heating, cooling, or reducing the use of other types of energy dependent upon fossil fuel for their generation. “Heat pump” means and refers to an electric powered compression heating system which utilizes warm ambient air or heated gas to assist in the production of hot water in home water heaters.”

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

SECTION 3. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1980.

(Approved June 23, 1981.)

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 234

H.B. NO. 440

A Bill for an Act Relating to Child Care Tax Credit.

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

SECTION 1. Section 235-55.6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Allowance of credit. For each resident taxpayer, who files an individual income tax return for a taxable year, and who is not claimed or is not otherwise eligible to be claimed as a dependent by another taxpayer for federal or Hawaii state individual income tax purposes, who maintains a household which includes as a member one or more qualifying individuals (as defined in subsection (c)(1)), there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to [five] ten per cent of the employment-related expenses (as defined in subsection (c)(2)) paid by such individual during the taxable year.”

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

SECTION 3. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1980.

(Approved June 23, 1981.)

## ACT 235

H.B. NO. 1292

A Bill for an Act Relating to the Landlord-Tenant Code.

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

SECTION 1. Section 521-42, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) The landlord shall at all times during the tenancy:
- (1) Comply with all applicable provisions of any state or county law, code, ordinance, or regulation, noncompliance with which would have the effect of endangering health or safety, governing maintenance, construction, use, or appearance of the dwelling unit and the premises of which it is a part;
  - (2) Keep common areas of a multi-dwelling unit premises in a clean and safe condition;
  - (3) Make all repairs and arrangements necessary to put and keep the premises in a habitable condition;
  - (4) Maintain all electrical, plumbing, and other facilities and appliances supplied by him in good working order and condition, subject to reasonable wear and tear;
  - (5) Except in the case of a single family residence, provide and maintain appropriate receptacles and conveniences for the removal of normal amounts of rubbish and garbage, and arrange for the frequent removal of such waste materials; and
  - (6) Except in the case of a single family residence, or where the building is not

required by law to be equipped for the purpose, provide for the supplying of running water as reasonably required by the tenant.

Prior to the initial date of initial occupancy, the landlord shall inventory the premises and make a written record detailing the condition of the premises and any furnishings or appliances provided. Duplicate copies of this inventory shall be signed by the landlord and by the tenant and a copy given to each tenant. In an action arising under this section, the executed copy of the inventory shall be presumed to be correct. If the landlord fails to make such an inventory and written record, the condition of the premises and any furnishings or appliances provided, upon the termination of the tenancy shall be rebuttably presumed to be the same as when the tenant first occupied the premises."

**SECTION 2.** Section 521-63, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) If the landlord removes or excludes the tenant from the premises overnight without cause or without court order so authorizing, the tenant may recover possession or terminate the rental agreement and, in either case, recover an amount equal to two months rent or free occupancy for two months, and the cost of suit, including reasonable attorney's fees. If the rental agreement is terminated, the landlord shall comply with section 521-44(c). The court may also order any injunctive or other equitable relief it deems proper. If the court determines that the removal or exclusion by the landlord was with cause or was authorized by court order, the court may award the landlord the cost of suit, including reasonable attorney's fees if the attorney is not a salaried employee of the landlord or his assignee."

**SECTION 3.** Section 521-64, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

"(b) If the landlord fails to perform in the manner specified in subsection (a), the tenant may:

- (1) Immediately do or have done the necessary repairs in a workmanlike manner, and upon submission to the landlord of receipts amounting to at least the sum deducted, deduct from his rent not more than \$300 for his actual expenditures for work done to correct the health or safety violation; or
- (2) Submit to the landlord, at least five business days before having the work done, written signed estimates from each of two qualified workmen and proceed to have done the necessary work by the workman who provides the lower estimate; provided that the landlord may require in writing a reasonable substitute workman or substitute materials, and upon submission to the landlord of receipts amounting to at least the sum deducted, the tenant may deduct \$300 or one month's rent, whichever is greater, for his actual expenditures for work done to correct the health or safety violation.

(c) The landlord, upon written notification by the tenant of any defective condition on the premises which is in material noncompliance with section 521-42(a) or with the rental agreement, shall commence repairs of the condition within twelve business days of the notification with a good faith requirement that the repairs be completed as soon as possible; provided that if the landlord is unable to commence

repairs within twelve business days for reasons beyond his control he shall inform the tenant of the reason for the delay and set a reasonable tentative date on which repairs will commence; provided further that in any case involving repairs, except those required due to misuse by the tenant, to electrical, plumbing, or other facilities, including major appliances provided by the landlord pursuant to the rental agreement, necessary to provide sanitary and habitable living conditions, the landlord shall commence affirmative good faith efforts to make repairs within three business days of receiving oral or written notification."

SECTION 4. Section 521-74, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Notwithstanding subsection (a), the landlord may recover possession of the dwelling unit if:

- (1) The tenant is committing waste, or a nuisance, or is using the dwelling unit for an illegal purpose or for other than living or dwelling purposes in violation of his rental agreement;
- (2) The landlord seeks in good faith to recover possession of the dwelling unit for immediate use as his own abode or that of his immediate family;
- (3) The landlord seeks in good faith to recover possession of the dwelling unit for the purpose of substantially altering, remodeling, or demolishing the premises;
- (4) The complaint or request of subsection (a) relates only to a condition or conditions caused by the lack of ordinary care by the tenant or another person in his household or on the premises with his consent;
- (5) The landlord has received from the department of health certification that the dwelling unit and other property and facilities used by or affecting the use and enjoyment of the tenant were on the date of filing of the complaint or request in compliance with health laws and regulations;
- (6) The landlord has in good faith contracted to sell the property, and the contract of sale contains a representation by the purchaser corresponding to paragraph (2) or (3); or
- (7) The landlord is seeking to recover possession on the basis of a notice to terminate a periodic tenancy, which notice was given to the tenant previous to the complaint or request of subsection (a)."

SECTION 5. Section 521-78, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) At the request of either the tenant or the landlord in any court proceeding in which the payment or nonpayment of rent is in dispute, the court shall order the tenant to deposit any disputed rent as it becomes due into the court as provided under subsection (c), and in the case of a proceeding in which a rent increase is in issue, the amount of the rent prior to the increase; provided that the tenant shall not be required to deposit any rent where the tenant can show to the court's satisfaction that the rent has already been paid to the landlord; provided further that if the parties had executed a signed, written instrument agreeing that the rent could be withheld or deducted, the court shall not require the tenant to deposit rent into the fund. No deposit of rent into the fund ordered under this section shall affect the tenant's rights to assert either that payment of rent was made or that any grounds for nonpayment

## **ACT 236**

of rent exist under this chapter.

(b) If the tenant is unable to comply with the court's order under subsection (a) in paying the required amount of rent into the court, the landlord shall have judgment for possession and execution shall issue accordingly. The writ of possession shall issue to the sheriff or to a police officer of the circuit where the premises are situated, commanding him to remove all persons from the premises, and to put the landlord, or his agent, into the full possession thereof."

**SECTION 6.** Statutory material to be repealed is bracketed. New material is underscored.\*

**SECTION 7.** This Act shall take effect upon its approval but shall not affect any proceedings which were begun, rights which accrued, or penalties or liabilities which were incurred prior to the effective date.

(Approved June 23, 1981.)

## **ACT 236**

**H.B. NO. 1874**

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.** The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read:

### **"CHAPTER ALOHA TOWER DEVELOPMENT CORPORATION**

**§ -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 and public instrumentality 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

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

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.

**§ -2 Definitions.** As used in this chapter, unless the context clearly requires otherwise:

- (1) "Board" means the board of directors of the development corporation established in section -4, and any successor thereto.
- (2) "Bonds" means revenue bonds, special facilities revenue bonds, notes, or other instruments of indebtedness of the development corporation issued under this chapter and shall include refunding bonds.
- (3) "Development corporation" means the Aloha Tower Development Corporation established by section -4.
- (4) "Maritime" means the administration of chapter 266 by the department of transportation.
- (5) "Project" means a work or improvement including personal property or any interest therein, acquired, constructed, reconstructed, rehabilitated, improved, altered, or repaired by the development corporation, and including public facilities.
- (6) "Project cost" means the total cost in carrying out all undertakings that the development corporation deems reasonable and necessary for the development of a project, including but not limited to the cost of studies, surveys, plans, and specifications, architectural, design, engineering, or any other special related services; the cost of site preparation and development, demolition, construction, reconstruction, rehabilitation, and improvement; the cost of financing such project, including interest on bonds issued to finance such project from the date thereof to the estimated date of completion of such project as determined by the board; the cost of an allocable portion of the administrative and operating expenses of the development corporation related to the development of such project; and the cost of any indemnity and surety bonds, premiums on policies of insurance, legal fees, and fees and expenses of trustees, depositories, and paying agents for the bonds; all as the development corporation shall deem necessary.
- (7) "Public agency" means any office, department, board, commission, bureau, division, public corporation, agency, or instrumentality of the federal, state, or county government.
- (8) "Public facilities" means streets, utility and service corridors, and utility lines where applicable, sufficient to adequately service developable improvements in the area, parking garages, sidewalks, pedestrian ways, parks, and other community facilities.
- (9) "Qualified person" means any individual, partnership, corporation, or any public agency, possessing the competence, expertise, experience, and resources, including financial, personnel, and tangible resources, required for the purposes of the project and such other qualifications as may be deemed desirable by the development corporation in administering this chapter.

(10) "Real property" means lands, structures, and interests therein and natural resources including water, minerals, and all such things connected with 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 fee title, such as leasehold interests, 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 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. Kekuanaao 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 5,210.56 feet West, thence running by azimuths measured clockwise from true South:

1.  $6^{\circ} 00'$  1.45 feet along the West side of the present Nimitz Highway;
2.  $276^{\circ} 00'$  5.50 feet along same;
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. Thence along same on a curve to the right with a radius of 110.00 feet, the chord azimuth and distance being  
 $12^{\circ} 20' 25''$  24.30 feet;
8. Thence along same on a curve to the right with a radius of 60.66 feet, the chord azimuth and distance being  
 $26^{\circ} 18' 40''$  16.11 feet;
9.  $59^{\circ} 35'$  22.85 feet along the Westerly side of the present Nimitz Highway;
10.  $329^{\circ} 35'$  72.15 feet along same;
11. Thence along same on a curve to the right with a radius of 72.00 feet, the chord azimuth and distance being  
 $294^{\circ} 10' 02''$  83.45 feet;

12.  $329^{\circ} 35'$  226.07 feet along the Westerly side of the present Nimitz Highway
13. 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
14.  $52^{\circ} 50'$  120.37 feet along the Northerly side of Bishop Street;
15.  $52^{\circ} 50'$  69.73 feet along same;
16.  $52^{\circ} 50'$  110.32 feet across Ala Moana;
17.  $149^{\circ} 35'$  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;
18.  $59^{\circ} 34'$  594.52 feet along same;
19. 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;
20.  $173^{\circ} 01' 30''$  608.15 feet along the remainder of Honolulu Harbor (Governor's Executive Order No. 1793);
21.  $228^{\circ} 25'$  495.96 feet along same;
22.  $318^{\circ} 25'$  0.94 of a foot along same;
23.  $228^{\circ} 25''$  459.72 feet along same to the point of beginning and containing an area of 567,442 square feet or 13.027 acres.

Vehicle access shall not be permitted into and from Nimitz Highway (Honolulu-Pearl Harbor Road) and Bishop Street, over and across Courses 1, 2, 3, 5, 8, 9, 11, 12, 13, and 14 of the above described Aloha Tower Plaza.

**§ -4 Aloha Tower Development Corporation; established.** (a) There is established the Aloha Tower Development Corporation, which shall be a public body corporate and politic and a public instrumentality of the State. The development corporation shall be placed within the department of planning and economic development for administrative purposes, pursuant to section 26-35.

(b) The development corporation shall consist of a board of directors having seven voting members. The director of planning and economic development, the director of transportation, the chairperson of the board of land and natural resources, and the mayor of the city and county of Honolulu, or their respective designated representatives, shall serve as ex officio voting members. Three members from the public at large shall be appointed by the governor for staggered terms pursuant to section 26-34 and shall also serve as voting members; provided that no public member shall be an officer or employee of the State or its political subdivisions. All members shall continue in office until their respective successors have been appointed. The director of the planning and economic development shall serve as chairperson of the board.

(c) The members of the board appointed under subsection (b) shall serve without compensation, but each member shall be reimbursed for expenses,

including travel expenses, incurred in the performance of their duties.

(d) The board shall appoint a chief executive officer. The board shall set the salary of the executive officer, who shall serve at the pleasure of the board and shall be exempt from chapters 76 and 77.

**§ -5 Powers; generally.** 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;
- (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;
- (9) By itself, or in partnership with qualified persons, to construct, reconstruct, rehabilitate, improve, alter, or repair or provide for the construction, reconstruction, improvement, alteration, or repair of any project; to own, hold, assign, transfer, convey, exchange, lease, sublease, or encumber any project;
- (10) To arrange or initiate appropriate action for the planning, replanning, opening, grading, or closing of streets, roads, roadways, alleys, easements, or other places, the furnishing of facilities, the acquisition of property or property rights, or the furnishing of property 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 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) 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) Issue bonds of the development corporation for the purpose of providing funds for any of its corporate purposes;

The development corporation shall impose, prescribe under chapter 91, and collect rates, rentals, fees, or charges for the lease and use and services of its projects.

**§ -6 Limitations on the powers of the developmental corporation.** (a) The development corporation shall not sell any fast or submerged lands of the Aloha Tower complex as established by this chapter.

(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, repairs, maintenance, or any essential reconstruction necessary for the preservation of the Aloha Tower as an historical monument shall be permissible.

(c) Irwin Memorial Park shall be retained as a public park subject to the reservations and conditions set forth in the deed of Helene Irwin Fagan to the Territory of Hawaii.

(d) The development corporation or its lessees shall not exercise any jurisdiction over the provided replacement facilities located within the project, required for necessary maritime purposes and activities; jurisdiction over the replacement facilities shall be in the department of transportation.

**§ -7 Development rules.** The development corporation shall adopt rules under chapter 91 to be followed during the course of the development of the project, which are to be known as development rules in connection with health, safety, building, planning, zoning, and land use, which, upon final adoption of a development plan for the Aloha Tower complex, shall supersede all other inconsistent ordinances and rules relating to the use, zoning, planning, and development of land and construction thereon within the Aloha Tower complex. Rules adopted under this section shall be adopted under chapter 91 and shall follow existing law, rules, ordinances, and regulations as closely as is consistent with standards meeting minimum requirements of good design, pleasant amenities, health, safety, and coordinated development. The rules shall also insure that necessary maritime activities are not impaired.

**§ -8 Use of public lands.** The governor may set aside applicable portions of the area designated as the Aloha Tower complex to the development corporation for the purpose specified in this chapter; provided that such setting aside would not impair any covenant between the State or any department or board thereof and holders of revenue bonds issued by the State or such department or board, or the

development corporation may lease applicable portions of the Aloha Tower complex from the department of transportation. The development corporation shall annually reimburse to the department of transportation any losses in revenues caused by any action of the development corporation. The development corporation shall provide replacement facilities for maritime activities at no cost to the department of transportation.

**§ -9 Construction contracts.** The development corporation shall award construction contracts in conformity with chapter 103 and this chapter.

**§ -10 Public projects.** Any project or activity of any public agency of the State in the Aloha Tower complex shall be constructed, renovated, or improved in consultation with the development corporation and the department of transportation.

**§ -11 Lease of projects.** The development corporation may lease for a term not exceeding sixty-five years, all or any portion of the real, personal, or mixed property constituting a project to any qualified person, upon such terms and conditions as may be approved by the board, if the board finds that the lease is in conformity with the development plan for the Aloha Tower complex. Notwithstanding any other provision to the contrary, the development corporation shall establish requirements and conditions relating to the terms of lease and the qualifications of any person to draw or bid for the lease.

**§ -12 Bonds; bond anticipation notes.** (a) The development corporation, with the approval of the governor, may issue bonds in such amounts as authorized from time to time by law and as deemed advisable for any of its corporate purposes. The principal of, premium, if any, and interest on such bonds shall be payable; except as limited by section -5(16):

- (1) Exclusively from the moneys derived from rates, rentals, fees, and charges of the project financed with the proceeds of such bonds, or from such moneys together with any grant from the government in aid of such project; or
- (2) Exclusively from the moneys derived from rates, rentals, fees, and charges of certain designated projects, whether or not they are financed in whole or in part with the proceeds of the bonds; or
- (3) From its moneys derived from rates, rentals, fees, and charges generally. The bonds shall be secured by a pledge of such revenue and may be additionally secured by a mortgage of any project or other property of the development corporation to the extent of its interest therein. Neither the commissioners nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof.

(b) Bonds issued pursuant to this chapter may be in one or more issues and in one or more series within an issue pursuant to resolution of the board. The bonds shall be dated, shall bear interest at such rate or rates, shall mature at such time or times not exceeding forty years from their date or dates, shall have such rank or priority, and may be made redeemable before maturity at the option of the development corporation, at such price or prices and under such terms and conditions, all as may be determined by the development corporation. The development corporation

shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and, subject to the approval of the state director of finance the place or places of payment of principal and interest, which may be at any bank or trust company approved by the state director of finance within or without the State. The bonds may be issued in coupon or in registered form, or both, as the development corporation may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The development corporation may sell bonds in such manner, either at public or private sale, and for such price as it may determine.

(c) Prior to the preparation of definitive bonds, the development corporation may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery.

(d) Should any bond issued under this chapter or any coupon appertaining thereto become mutilated or be lost, stolen, or destroyed, the development corporation may cause a new bond or coupon of like date, number, and tenor to be executed and delivered in exchange and substitution for and upon the cancellation of such mutilated bond or coupon, or in lieu of and in substitution for, such lost, stolen, or destroyed bond or coupon. Such new bond or coupon shall not be executed or delivered until the holder of the mutilated, lost, stolen, or destroyed bond or coupon has (1) paid the reasonable expense and charges in connection therewith, (2) in the case of a lost, stolen, or destroyed bond or coupon, has filed with the development corporation or its fiduciary evidence satisfactory to such development corporation or its fiduciary that such bond or coupon was lost, stolen, or destroyed and that the holder was the owner thereof, and (3) has furnished indemnity satisfactory to the development corporation.

(e) The development corporation in its discretion may provide that CUSIP identification numbers shall be printed on such bonds. In the event such numbers are imprinted on any such bonds (1) no such 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 development corporation or any officer or agent thereof, including any fiscal agent, paying agent, or registrar for such bonds by reason of such numbers or any use made thereof, including any use thereof made by the development corporation, any such officer, or any such agent, or by reason of any inaccuracy, error, or omission with respect thereto or in such use. The development corporation in its discretion may require that all costs of obtaining and imprinting such numbers shall be paid by the purchaser of such bonds. For the purposes of this subsection, the term "CUSIP identification numbers" means the numbering system adopted by the Committee for Uniform Security Identification Procedures formed by the Securities Industry Association.

(f) Whenever the development corporation has authorized the issuance of bonds under this chapter, bond anticipation notes of the development corporation may be issued in anticipation of the issuance of such bonds and of the receipt of the proceeds of sale thereof, for the purposes for which such bonds have been authorized. All bond anticipation notes shall be authorized by the development

corporation, and the maximum principal amount of such notes shall not exceed the authorized principal amount of such bonds. The notes shall be payable solely from and secured solely by the proceeds of sale of the bonds in anticipation of which the notes are issued and the moneys, rates, charges, and other revenues from which would be payable and by which would be secured such bonds; provided that to the extent that the principal of the notes shall be paid from moneys other than the proceeds of sale of such bonds, the maximum amount of bonds that has been authorized in anticipation of which the notes are issued shall be reduced by the amount of notes paid in such manner. The authorization, issuance, and the details of such notes shall be governed by this chapter with respect to bonds insofar as the same may be applicable; provided that each note, together with all renewals and extensions thereof, or refundings thereof by other notes issued under this subsection shall mature within five years from the date of the original note.

(g) In order to secure the payment of any of the bonds issued pursuant to this chapter, and interest thereon, or in connection with such bonds, the development corporation shall have the power as to such bonds:

- (1) To pledge all or any part of the moneys, rates, charges, and other revenues derived by the development corporation as provided in this chapter to the punctual payment of bonds and interest thereon, and to covenant against thereafter pledging any such moneys, notes, charges, and other revenues to any other bonds or any other obligations of the development corporation for any other purpose, except as otherwise stated in the proceedings providing for the issuance of bonds permitting the issuance of additional bonds to be equally and ratably secured by a lien upon such moneys, rates, charges, and other revenues.
- (2) To pledge and assign the interest of the development corporation under any lease and other agreements related to a project and the rights, duties, and obligations of the development corporation thereunder, including the right to receive revenues thereunder.
- (3) To covenant as to the use and disposition of the proceeds from the sale of such bonds.
- (4) To covenant to set aside or pay over reserves and sinking funds for such bonds and as to the disposition thereof.
- (5) To covenant and prescribe as to what happenings or occurrences shall constitute "events of default", the terms and conditions upon which any or all of such bonds shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.
- (6) To covenant as to the rights, liabilities, powers, and duties arising upon the breach by it of any covenant, condition, or obligation.
- (7) Subject to the approval of the state director of finance, to designate a national or state bank or trust company within or without the State, incorporated in the United States, to serve as trustee for the holders of the bonds and to enter into a trust indenture, trust agreement, indenture of mortgage with such trustee. The trustee may be authorized by the development corporation to receive and receipt for, hold, and administer the proceeds of such bonds and to apply the same to the purposes for

which such bonds are issued, or to receive and receipt for, hold, and administer the moneys, rents, charges, and other revenues derived by the development corporation under a lease or other agreement related to a project, and to apply such moneys, rents, charges, and other revenues to the payment of the principal of and interest on such bonds, or both, and any excess moneys, rents, charges, and other revenues to the payment of expenses incurred by the development corporation in administering such bonds or in carrying out such lease or other agreement. In the event that such trustee shall be appointed, any trust indenture, trust agreement, or indenture of mortgage entered into by the development corporation with the trustee may contain whatever covenants and provisions as may be necessary, convenient or desirable in order to secure such bonds. The development corporation may pledge and assign to the trustee the interest of the development corporation under a lease and other agreements related to a project and the rights, duties, and obligations of the development corporation thereunder, including the right to receive revenues thereunder. The development corporation may appoint the trustee to serve as fiscal agent for the payment of the principal and interest, and for the purchase, registration, transfer, exchange, and redemption of the bonds, and may authorize and empower the trustee to perform such functions with respect to such payment, purchase, registration, transfer, exchange, and redemption, as the development corporation may deem necessary, advisable, or expedient, including without limitation the holding of the bonds and coupons which have been paid and the supervision of the destruction thereof in accordance with law.

- (8) To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants and duties.
- (9) To make such covenants and do any and all acts and things as may be necessary, or convenient or desirable in order to secure such bonds, notwithstanding that such covenants, acts, or things may not be enumerated in this chapter.

No holder or holders of any bonds issued under this chapter shall ever have the right to compel any exercise of taxing power of the State to pay such bonds or the interest thereon and no moneys other than the revenues pledged to such bonds shall be applied to the payment thereof.

(h) Bonds bearing the signature or facsimile signature of officers in office on the date of the signing thereof shall be valid and sufficient for all purposes, notwithstanding that before the delivery thereof and payment therefor any or all the persons whose signatures appear thereon shall have ceased to be officers of the development corporation. The bonds shall contain a recital that they are issued pursuant to this chapter which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

(i) The development corporation may issue bonds for the purpose of refunding any bonds then outstanding and issued under this chapter whether or not such outstanding bonds have matured or are then subject to redemption. The development corporation may issue bonds for the combined purposes of (1) financing or refinancing the cost of a project, improvement or expansion thereof,

and (2) refunding bonds which shall theretofore have been issued under this chapter and shall then be outstanding, whether or not such outstanding bonds have matured or are then subject to redemption. Nothing in this subsection shall require or be deemed to require the development corporation to elect to redeem or prepay bonds being refunded, or to redeem or prepay 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 development corporation elects to redeem or prepay any such bonds, to redeem or prepay as of any particular date or dates. The issuance of such bonds, the maturities and other details thereof, the rights and remedies of the holders thereof, and the rights, powers, privileges, duties, and obligations of the development corporation with respect to the bonds, shall be governed by the foregoing provisions of this chapter insofar as the same may be applicable.

**§ -13 State and political subdivisions not liable on bonds.** The bonds and other obligations of the development corporation (and such bonds and obligations shall so state on their face) shall not be a debt of the State or of any political subdivision; neither the State nor any political subdivision shall be liable thereon, nor in any event shall they be payable solely out of funds or properties other than those of the development corporation pledged thereto.

**§ -14 Bonds exempt from taxation.** Bonds and the income therefrom issued pursuant to this chapter shall be exempt from all state and county taxation except inheritance, transfer, and estate taxes.

**§ -15 Bonds as legal investments and lawful security.** Bonds issued pursuant to this chapter shall be and are declared to be legal and authorized investments for banks, savings banks, trust companies, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for all public funds of the State or other political corporations or subdivisions of the State. Such bonds shall be eligible to secure the deposit of any and all public funds of the State and any and all public funds of counties or other political corporations or subdivisions of the State, and such bonds shall be lawful and sufficient security for such deposits to the extent of their value when accompanied by all unmatured coupons appertaining thereto.

**§ -16 Exemption from taxation of development corporation.** All revenues derived by the development corporation from any project or under a lease or other agreement pertaining thereto shall be exempt from all state and county taxation. Any right, title, and interest of the development corporation in any project shall also be exempt from all state and county taxation. Except as otherwise provided by law, the interest of a qualified person or other user of a project under a lease or other agreements related to a project shall not be exempt from taxation to a greater extent than it would be if the costs of the project were directly financed by the qualified person or other user.

**§ -17 Aloha Tower fund.** There is created the Aloha Tower fund. All moneys, rentals, charges, and other revenues of the development corporation shall be deposited into the fund; provided the development corporation may establish a separate account with respect to each issue of bonds issued under this chapter and direct the moneys, rentals, charges, and other revenues pledged to the payment of

such issue of bonds be credited to such account and, as permitted by section - 12(g)(7), designate a trustee to receive and receipt for, hold, and administer the moneys in such account. In the event moneys are to be credited to a separate account held by a trustee as aforesaid, such moneys may be paid directly to such trustee with appropriate entries made with respect to the fund for purposes of accounting. The moneys on deposit in the fund shall be used for the purposes of this chapter.

**§ -18 Assistance by state and county agencies.** Every state or county agency may render services upon request of the development corporation.

**§ -19 Annual report.** The development corporation shall submit to the governor and the legislature, at least twenty days prior to the start of each regular session, a complete and detailed report of its activities.

**§ -20 Court proceedings; preference.** Any action or proceeding to which the development corporation, the State or a county may be a party, in which any question arises as to the validity of this chapter, shall be preferred over all other civil causes, except election cases, without respect to position on the calendar. The same preference shall be given upon application of counsel to the development corporation in any action or proceeding questioning the validity of this chapter in which the development corporation has duly intervened.

**§ -21 Construction of this chapter.** The powers conferred by this chapter shall be in addition and supplemental to the powers conferred by any other law. Insofar as the provisions of this chapter are inconsistent with the provisions of any other law, this chapter shall be controlling."

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. This Act shall take effect upon approval.

(Approved June 23, 1981.)

A Bill for an Act Relating to Violence and Vandalism in the Public Schools.

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

SECTION 1. Chapter 296, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**"§296- Reporting of violent incidents.** The board of education shall, prior to January 1, 1982, adopt rules pursuant to chapter 91 to:

- (1) Require the reporting to appropriate authorities of any incident in which a student, officer, or employee of the department is threatened, assaulted, or extorted within the meaning of sections 707-715 to 707-717 relating to terroristic threatening, 707-710 to 707-712 relating to assault, and 707-764 to 707-768 relating to extortion, respectively;
- (2) Establish procedures for disposing of any incident reported; and

- (3) Impose, in addition to any other powers or authority the department of education may have to discipline officers or employees, appropriate disciplinary action for failure to report such incidents, including probation, suspension, demotion, and discharge of such officers or employees.

**§296- Indemnity upon reporting.** The State shall indemnify and hold harmless anyone participating in good faith in the making of a report pursuant to section 296- from any civil liability that might otherwise be incurred or imposed by or as a result of the making of such report."

SECTION 2. New statutory material is underscored.\*

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

(Approved June 24, 1981.)

ACT 238

H.B. NO. 934

A Bill for an Act Relating to the Nursing Home Administrators Act.

*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, 1979:

- (1) Chapter 443 (Collection Agencies Board)  
(2) Chapter 467A (Rental Agencies)

- (b) The following chapters are hereby repealed effective December 31, 1980:  
(1) Chapter 436 (Board of Examiners for Abstract Makers)  
(2) Chapter 468J (Travel Agencies)  
(3) Chapter 443 (Collection Agencies Board)

- (c) The following chapters are hereby repealed effective December 31, 1981:  
(1) Chapter 441 (Cemetery Board)  
(2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)

- [3] Chapter 457B (Board of Examiners of Nursing Home Administrators)  
[(4)] (3) Chapter 458 (Board of Dispensing Opticians)  
[(5)] (4) Chapter 459 (Board of Examiners in Optometry)  
[(6)] (5) Chapter 465 (Board of Certification for Practicing Psychologists)  
[(7)] (6) Chapter 468E (Board of Speech Pathology and Audiology)  
[(8)] (7) Chapter 452 (Board of Massage)

- (d) The following chapters are hereby repealed effective December 31, 1982:  
(1) Chapter 436D (Board of Acupuncture)  
(2) Chapter 437B (Motor Vehicle Repair Industry Board)  
(3) Chapter 442 (Board of Chiropractic Examiners)

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

- (4) Chapter 448E (Board of Electricians and Plumbers)
- (5) Chapter 464 (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
- (6) Chapter 466 (Board of Public Accountancy)
- (7) Chapter 467 (Real Estate Commission)
- (8) Chapter 448H (Elevator Mechanics Licensing Board)
- (e) The following chapters are hereby repealed effective December 31, 1983:
  - (1) Chapter 444 (Contractors License Board)
  - (2) Chapter 448 (Board of Dental Examiners)
  - (3) Chapter 453 (Board of Medical Examiners)
  - (4) Chapter 457 (Board of Nursing)
  - (5) Chapter 460 (Board of Osteopathic Examiners)
  - (6) Chapter 460J (Pest Control Board)
  - (7) Chapter 461 (Board of Pharmacy)
- (f) The following chapters are hereby repealed effective December 31, 1984:
  - (1) Chapter 455 (Board of Examiners in Naturopathy)
  - (2) Chapter 463E (Podiatry)
  - (3) Chapter 438 (Barbering, Practice of)
- [(4)] (4) Chapter 439 (Beauty Culture)
- (5) Chapter 457B (Board of Examiners of Nursing Home Administrators)
- (g) The following chapters are hereby repealed effective December 31, 1985:
  - (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
  - (2) Chapter 440 (Boxing Commission)
- (h) The following chapters are hereby repealed effective December 31, 1986:
  - (1) Chapter 447 (Dental Hygenists)
- [(2)] (2) Chapter 463 (Board of Private Detectives and Guards)
- [(3)] (3) Chapter 471 (Board of Veterinary Examiners)[.]

SECTION 2. Section 457B-4, Hawaii Revised Statutes, is amended to read as follows:

**“§457B-4 Appointment, qualifications, term.** (a) The governor shall appoint the members of the board in accordance with section 26-34. The board shall consist of seven members who shall serve for a term of four years. No member shall be appointed to more than two full consecutive terms. The board shall be composed of persons representing professions and institutions concerned with the care and treatment of chronically ill or infirm elderly patients, including but not limited to doctors, skilled nurses, hospital administrators, long term care facility administrators, physical therapists, occupational therapists, nutritionists, and gerontological social workers; provided that no more than three members shall be nursing home administrators.

(b) A majority of the board members may not be representative of a single profession or category of institution. Members not representative of institutions may not have a direct financial interest in any nursing home.

(c) For purposes of this section, nursing home administrators are considered representatives of institutions.”

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

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

(Approved June 24, 1981.)

ACT 239

H.B. NO. 293

A Bill for an Act Relating to Firearms.

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

SECTION 1. Section 134-1, Hawaii Revised Statutes, is amended to read as follows:

**“§134-1 Definitions.** As used in this chapter: “Firearm” means any weapon, the operating force of which is an explosive. This definition includes pistols, revolvers, rifles, shotguns, machine guns, automatic rifles, noxious gas projectors, mortars, bombs, cannon, and submachine guns. The specific mention of certain weapons does not exclude from the definition other weapons operated by explosives.

“Pistol” or “revolver” means any firearm of any shape whatsoever with a barrel less than sixteen inches in length and capable of discharging loaded ammunition or any noxious gas.

“Electric gun” means any portable device which is electrically operated to project a missile or electromotive force. It does not mean to include any electric livestock prod used in animal husbandry.

“Chief of police” means the chief of police of the counties of Hawaii, Maui, Kauai, and the City and County of Honolulu.

“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.

“Crime of violence” means any offense, as defined in Title 37, which involves injury or threat of injury to the person of another.”

SECTION 2. Section 134-2, Hawaii Revised Statutes, is amended to read as follows:

**“§134-2 Registration, mandatory.** (a) Every person arriving in the State who brings with him firearms of any description, whether usable or unusable, serviceable or unserviceable, modern or antique, or ammunition of any type and description, shall within forty-eight hours after arrival, register the same with the chief of police of the county of such person’s place of business, or if there be no place of business, such person’s residence, or if there be neither place of business nor residence, such person’s place of sojourn; provided that, no alien shall be allowed to bring any firearm into the State.

(b) Every person who acquires a pistol or revolver pursuant to section 134-3

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\*Except as to Section 1, the text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

shall, within five days of acquisition, register it in the manner prescribed by this section.

Registration shall not be required for: (1) any device designed to fire loose black powder; (2) a device not designed to fire or made incapable of discharging a shot by means of an explosive and 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.

The registration shall be on such forms as may be designated by the department of the attorney general and shall include the names of the manufacturer and importer, model, type of action, caliber or gauge, the serial number, quantity and class of ammunition in the person's ownership and/or possession, and the source from which receipt was obtained, including the name and address of the prior registrant.

No fee shall be charged for the registration.

(c) Any person who fails to comply with subsection (b) of this section shall be guilty of a misdemeanor. Failure to comply with any other subsection of this section shall be a petty misdemeanor."

SECTION 3. Section 134-3, Hawaii Revised Statutes, is amended to read as follows:

**"§134-3 Permits to acquire; penalty.** No person shall acquire the ownership of a firearm of any description, 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 such person has first procured from the chief of police of the county of the person's place of business, or if there be no place of business, such person's residence, or if there be neither place of business nor residence, such person's place of sojourn, a permit to acquire as prescribed herein; provided that when title to any such firearm is acquired by inheritance or bequest, the foregoing permit shall be obtained before taking possession of same.

The permit application form shall include the applicant's name, address, sex, height, weight, date of birth, place of birth, information regarding the applicant's mental health history, and social security number, 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 said department, the fingerprinting and photographing may be waived.

Applicants for a permit shall sign a waiver at time of application, upon forms to be specified by the department of the attorney general, allowing the chief of police of the county issuing permits access to any records which have a bearing on the mental health of the applicant.

No person shall keep in his possession any firearm which is owned by another, whether or not the owner has consented to its possession, without a permit from the chief of police of the appropriate county except as provided in section 134-5.

Any lawfully acquired rifle or shotgun may be loaned to an adult for use within the State for a period not to exceed fifteen days without obtaining 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.

No firearm shall knowingly be loaned to any person who is prohibited under section 134-7 from ownership or possession of a firearm.

Each chief of police may issue permits, within the chief's jurisdiction, to acquire firearms to citizens of the United States of the age of eighteen years or more, and to duly accredited official representatives of foreign nations. Each chief of police may also 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, after the alien has first procured a hunting license under sections 191-1 to 191-6.

Applications for the permits shall be signed by the applicant upon forms to be specified by the department of the attorney general and shall be signed 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 to law enforcement officers, or where a license is granted under section 134-9, or where any firearm is registered pursuant to section 134-2(a), a permit shall be issued no earlier than ten calendar days after the date of application; provided that a permit shall be issued, or an application denied, no later than fifteen days from the date of the application. 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 acquisition. 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, subject to the disqualifications under section 134-7. In all cases where possession of a pistol or revolver is acquired from another person in the State the permit shall be signed in ink by the holder thereof and shall be delivered to and taken up by the person who is transferring title to the firearm, who shall make entry thereon setting forth in the space provided the name of the person to whom the firearm was transferred, and the make, style, caliber, and number as applicable. The person shall then sign it in ink and cause it to be delivered or sent by registered mail to the issuing authority within forty-eight hours. In case receipt of the 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 thereon, sign it in ink, and cause it to be delivered, or sent by registered mail to the issuing authority within forty-eight hours after taking possession of the firearm. No person shall sell, give, loan, or deliver into the possession of another any firearm or ammunition except in accordance with this section.

No fee shall be charged for permits under this section.

Any person who violates this section shall be guilty of a misdemeanor."

SECTION 4. Section 134-5, Hawaii Revised Statutes, is amended to read as follows:

**“§134-5 Possession by licensed hunters and minors; issuance of permits.** (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, if the person has procured a hunting license under section 191-1 to 191-6 and provided

minors shall also obtain a permit pursuant to subsection (b) of this section.

(b) The chief of police of each county may issue permits to citizens of the United States who are minors, but such permits shall be limited to the sole purpose of carrying and using any rifle or shotgun as provided in section (a) of this section. This permit shall expire on the expiration date of the hunting license as provided in section 191-3.

(c) Any lawfully acquired firearm may be loaned to another, even though the other person is a minor, upon a target range or similar facility for a period not longer than to allow the other person to then and there use it for target shooting, without a permit."

SECTION 5. Section 134-7, Hawaii Revised Statutes, is amended to read as follows:

**"§134-7 Ownership or possession prohibited, when; penalty.** (a) No person who is a fugitive from justice shall own or have in his possession or under his control any firearm or ammunition therefor.

(b) No person who is under indictment for, or has been convicted in this State or elsewhere of having committed a felony, or any crime of violence, or of the illegal sale of any drug, shall own or have in his possession or under his 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, or intoxicating liquor;
- (2) Has been committed pursuant to section 333-27, 333-35, or 333-35.5;
- (3) Has been admitted to and detained at a psychiatric facility pursuant to chapter 334, part IV or V;
- (4) Has been acquitted of a crime on the grounds of mental disease, disorder, or defect pursuant to section 704-411; or
- (5) 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;

shall own, possess, or control any firearm or ammunition therefor, unless such person has been medically documented to have been cured of the addiction, mental disease, disorder, or defect.

(d) No person who, as a minor:

- (1) Is a fugitive from justice;
- (2) Has been adjudicated by the family court to have committed a felony or any crime of violence; or
- (3) Has been determined not to have been responsible for a criminal act or committed to any institution on account of a mental disease, disorder, or defect;

shall own, possess, or control any firearm or ammunition therefor, unless such person has been medically documented to have been cured of any such mental disease, disorder or defect.

For the purposes of enforcing this subsection, 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 subsections 134-7(a) or (b) shall be guilty of a class C felony, provided that any felon violating subsection 134-7(b) shall be guilty of a class B felony. Any person violating subsections 134-7(c), (d), or (e) shall be guilty of a misdemeanor."

SECTION 6. Section 134-9, Hawaii Revised Statutes, is amended to read as follows:

**“§134-9 Licenses to carry; penalty.** In an exceptional case, when the applicant shows reason to fear injury to his person or property, the respective chiefs of police may grant a license to a citizen of the United States or a duly accredited official representative of a foreign nation, of the age of twenty years or more, to carry concealed on his person within the county where the license is granted, a pistol or revolver and ammunition therefor; or where the urgency of the need has been sufficiently indicated to the respective chiefs of police, they 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, who is engaged in the protection of life and property and not prohibited under section 134-7 from the ownership or possession of a firearm, a license to carry unconcealed on his person within the county where the license is granted, a pistol or revolver. Unless renewed, the license shall automatically become void at the expiration of one year from date of issue. No license shall be issued unless it appears that the applicant is a suitable person to be so licensed, and in no event to a person who is prohibited under section 134-7 from the ownership or possession of a firearm, or a person adjudged insane or appearing to be mentally deranged. The chief of police of each county shall adopt procedures to require that any person granted a license to carry a concealed weapon on his person, shall be qualified to use the firearm in a safe manner. No person shall carry concealed or unconcealed on his person a pistol or revolver without being licensed so to do under this section or in compliance with section 134-6.

For each license there shall be charged a fee of \$10, which shall be deposited in the treasury of the county in which the license is granted.

Any person violating this section shall be guilty of a class C felony.

SECTION 7. **Severability.** 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 8. Statutory material to be repealed is bracketed. New material is underscored.\*

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

SECTION 9. This Act shall take effect upon its approval and shall not affect any proceedings which were begun, rights which accrued, or penalties or liabilities which were incurred before the effective date.

(Approved June 24, 1981.)

## ACT 240

H.B. NO. 1437

A Bill for an Act Relating to Taxation.

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

SECTION [1].<sup>†</sup> Chapter 239, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

**"§239-11 Exemption of certain contract carriers.** There shall be exempted and excluded from the measure of the tax imposed by this chapter on the gross income from any contract carrier by water having a gross weight exceeding ten thousand gross tons which is engaged primarily in the business of transporting persons for tourism or sightseeing purposes within the State; provided that this exemption shall apply only to contract carriers by water engaged in business on June 30, 1981; and provided further that such exemption shall be applicable for the period July 1, 1981 to June 30, 1986."

SECTION 2. New statutory material is underscored.\*

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

(Approved July 1, 1981.)

## ACT 241

S.B. NO. 354

A Bill for an Act Relating to the Sale of Prophylactics in Vending Machines.

*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:

**"§321- Prophylactics.** (a) As used in this section "prophylactic" means any device or appliance used or to be used for the prevention of venereal disease.

(b) No person shall publicly vend prophylactics in mechanical coin-operated machines unless he shall have obtained a permit from the department of health. The department of health shall adopt rules and charge fees to regulate the sale of prophylactics through vending machines and require that they be stocked with adequately labeled and scientifically approved devices only.

(c) It shall be unlawful for any person to vend prophylactics in mechanical coin-operated machines on the premises of any school in this State. The term

<sup>†</sup> Bracketed "1" added to correct obvious omission.

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## **ACT 242**

"school" as used herein shall have the same meaning as defined by section 297-1."

**SECTION 2.** Sections 321-112 to 321-114, Hawaii Revised Statutes, are repealed.

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

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

The foregoing became law on July 7, 1981, without the Governor's signature, pursuant to Art. III, §16, State Constitution.

## **ACT 242**

**S.B. NO. 601**

A Bill for an Act Relating to Speech Pathologists and Audiologists.

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

**SECTION 1.** The purpose of this Act is to streamline the administration of the regulation of speech pathologists and audiologists.

**SECTION 2.** Section 468E-2, Hawaii Revised Statutes, is amended to read as follows:

**“§468E-2 Definitions.** As used in this chapter:

- (1) "Board" means the state board of speech pathology and audiology, established under section 468E-6.
- (2) "Person" means any individual, organization, or corporate body, except that only an individual may be licensed under this chapter.
- (3) "Speech pathologist" means an individual who practices speech pathology.
- (4) "The practice of speech pathology" means the application of principles, methods, and procedures of measurement, prediction, evaluation, testing, counseling, consultation, and instruction related to the development and disorders of speech and related language and hearing for the purpose of modifying speech and related language and hearing disorders.
- (5) "Audiologist" means an individual who practices audiology.
- (6) "The practice of audiology" means the application of principles, methods, and procedures of measurement, prediction, evaluation, testing, counseling, consultation, and instruction related to the development and disorders of hearing and related language and speech for the purpose of modifying hearing function and related language and speech disorders.
- (7) "ASHA" means the American Speech-Language-Hearing Association, the national administrative office of which is located in Rockville, Maryland, 10801 Rockville Pike (20852)."

**SECTION 3.** Section 468E-3, Hawaii Revised Statutes, is amended to read as follows:

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

**“§468E-3 Practice as speech pathologist or audiologist; title or description of services.** (a) A person represents himself to be a speech pathologist when he:

- (1) Holds himself out to the public by any title or description of services incorporating the words “speech pathologist,” “speech pathology,” “speech therapy,” “speech correction,” “speech correctionist,” “speech therapist,” “speech clinic,” “speech clinician,” “language pathologist,” “language pathology,” “logopedics,” “logopedist,” “communicology,” “communicologist,” “asphasiologist,” “voice therapy,” “voice therapist,” “voice pathology,” or “voice pathologist,” “language therapist,” or “phoniatrist,” or any similar titles;
- (2) Purports to treat stuttering, stammering, or other disorders of speech;
- (3) Is employed as a faculty member in speech pathology;
- (4) Is employed as a speech pathologist by the state or any county agency.
- (b) A person represents himself to be an audiologist when he:
- (1) Holds himself out to the public by any title or description of services incorporating the terms “audiology,” “audiologist,” “audiological,” “hearing clinic,” “hearing clinician,” “hearing therapist,” or any similar titles;
- (2) Is employed as a faculty member in audiology;
- (3) Is employed as an audiologist by the State or any county agency.”

SECTION 4. 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 he is licensed; or
- (4) Any person employed by any federal government agency whose speech pathologist and/or audiologist 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. However, such person may, without obtaining a license under this chapter, consult with or disseminate his research findings and other scientific information to speech pathologists and audiologists outside the jurisdiction of the organization by which he 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 his 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 his 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 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 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)-(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 30 days in any calendar year, if such services are performed in cooperation with a speech pathologist or audiologist licensed under this chapter."

SECTION 5. Section 468E-8, Hawaii Revised Statutes, is amended to read as follows:

**"§468E-8 License.** (a) On and after January 1, 1975, no person shall engage in the practice of speech pathology or audiology unless he 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 local or state government shall comply with the license requirements of this chapter by December 31, 1984.

(c) A person certified by ASHA or licensed under the laws of another state or the District of Columbia as a speech pathologist or audiologist who has applied for a license in this State may perform speech pathology or audiology services in this State for a period not to exceed 90 days from the time of submitting his application."

SECTION 6. 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, 1979:

- (1) Chapter 443 (Collection Agencies Board)  
(2) Chapter 467A (Rental Agencies)

(b) The following chapters are hereby repealed effective December 31, 1980:

- (1) Chapter 436 (Board of Examiners for Abstract Makers)  
(2) Chapter 468J (Travel Agencies)  
(3) Chapter 443 (Collection Agencies Board)

- (c) The following chapters are hereby repealed effective December 31, 1981:
- (1) Chapter 441 (Cemetery Board)
  - (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
  - (3) Chapter 457B (Board of Examiners of Nursing Home Administrators)
  - (4) Chapter 458 (Board of Dispensing Opticians)
  - (5) Chapter 459 (Board of Examiners in Optometry)
  - (6) Chapter 465 (Board of Certification for Practicing Psychologists)
  - [7] Chapter 468E (Board of Speech Pathology and Audiology)
  - (8) (7) Chapter 452 (Board of Massage)
- (d) The following chapters are hereby repealed effective December 31, 1982:
- (1) Chapter 436D (Board of Acupuncture)
  - (2) Chapter 437B (Motor Vehicle Repair Industry Board)
  - (3) Chapter 442 (Board of Chiropractic Examiners)
  - (4) Chapter 448E (Board of Electricians and Plumbers)
  - (5) Chapter 464 (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
  - (6) Chapter 466 (Board of Public Accountancy)
  - (7) Chapter 467 (Real Estate Commission)
  - (8) Chapter 448H (Elevator Mechanics Licensing Board)
- (e) The following chapters are hereby repealed effective December 31, 1983:
- (1) Chapter 444 (Contractors License Board)
  - (2) Chapter 448 (Board of Dental Examiners)
  - (3) Chapter 453 (Board of Medical Examiners)
  - (4) Chapter 457 (Board of Nursing)
  - (5) Chapter 460 (Board of Osteopathic Examiners)
  - (6) Chapter 460J (Pest Control Board)
  - (7) Chapter 461 (Board of Pharmacy)
- (f) The following chapters are hereby repealed effective December 31, 1984:
- (1) Chapter 455 (Board of Examiners in Naturopathy)
  - (2) Chapter 463E (Podiatry)
  - (3) Chapter 438 (Barbering, Practice of)
  - [[4]] Chapter 439 (Beauty Culture)
- (g) The following chapters are hereby repealed effective December 31, 1985:
- (1) Chapter 437 (Motor Vehicle Industry Licensing Board)[.]
  - (2) Chapter 440 (Boxing Commission)
- (h) The following chapters are hereby repealed effective December 31, 1986:
- (1) Chapter 447 (Dental Hygienists)
  - [[2]] Chapter 463 (Board of Private Detectives and Guards)
  - [[3]] Chapter 471 (Board of Veterinary Examiners)[.]
- (i) The following chapter is hereby repealed effective December 31, 1988:
- (1) Chapter 468E (Board of Speech Pathology and Audiology)"

**ACT 243**

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

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

The foregoing became law on July 7, 1981, without the Governor's signature, pursuant to Art. III, §16, State Constitution.

**ACT 243**

**H.B. NO. 1470**

A Bill for an Act Relating to Transportation.

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

**SECTION 1.** The legislature finds and declares that:

(a) The State of Hawaii receives substantial revenues from the sale and delivery of in-bond merchandise to foreign-bound travelers departing from the Honolulu International Airport. In 1980 the State's airport special fund received over \$30 million from such sales.

(b) Presently there are two competing businesses serving the duty-free market under contracts with the department of transportation. These contractors have guaranteed the airport special fund a minimum of \$395,700,007 over the seven and one-half year life of the contracts.

(c) For the fiscal year 1981-1982, the revenues from the contracts are expected to provide forty per cent of the income of the airport special fund which supports all capital improvement programs and operating expenses and secures the revenue bonds for the state airport system.

(d) The addition of any more competition into this line of commerce may jeopardize these revenues and detrimentally affect the airport special fund.

(e) Tourism is, and will continue to be, one of the State's major industries. The economic welfare of the State and its citizens will depend in part upon the future of tourism in the State.

(f) Tourism in Hawaii is heavily dependent upon the national and international airline industry. If the revenues received by the airport special fund from the duty-free contractors are reduced, the airline industry landing fees will be increased correspondingly. There will be a detrimental effect on Hawaii's tourism industry if the airlines pass the additional cost on to the tourists through increased airline fares. Local consumers, of course, will also be paying higher air fares.

(g) Another important aspect of the State's tourism industry is the selling and delivering of in-bond merchandise to foreign-bound travelers.

(h) It is in the interest of the State and the State's tourism industry to insure that quality merchandise and excellent service at reasonable prices to departing foreign-bound travelers be established and maintained in the in-bond merchandise marketplace, taking into consideration the available physical facilities, personnel, logistical parameters, and competing interests at the Honolulu International Airport and within the State.

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\*Except as to Section 6, the text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

(i) Foremost among the concerns related to the addition of other competitors into the duty-free market are (1) whether the orderly administration of the airport and its facilities can be maintained and (2) the amount which can be assessed against additional competitors by the State for the privilege of delivering duty-free merchandise to the Honolulu International Airport.

(j) It is the policy of this State to protect the duty-free marketplace and thereby the tourist industry by limiting the number of duty-free operations to two and requiring that the State actively supervise their operations as a substitute for the competitive discipline of a free market economy. This Act will expire on June 30, 1982. It is intended that the Legislature will reexamine this Act during the 1982 Regular Session.

SECTION 2. Section 261-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Under department operation. In operating an airport or air navigation facility owned or controlled by the department of transportation, or in which it has a right or interest, the department may enter into contracts, leases, licenses, and other arrangements with any person:

- (1) Granting the privilege of using or improving the airport or air navigation facility or any portion or facility thereof or space therein for commercial purposes;
- (2) Conferring the privilege of supplying goods, commodities, things, services, or facilities at the airport or air navigation facility;
- (3) Making available services, facilities, goods, commodities, or other things to be furnished by the department or its agents at the airport or air navigation facility; or
- (4) Granting the use and occupancy on a temporary basis by license or otherwise any portion of the land under its jurisdiction which for the time being may not be required by the department so that it may put the area to economic use and thereby derive revenue therefrom.

All the arrangements shall contain a clause that the land may be repossessed by the department when needed for aeronautics purposes upon giving the tenant temporarily occupying the same not less than thirty days' notice in writing of intention to repossess.

Except as otherwise provided in this section, in each case mentioned in paragraphs (1), (2), (3) and (4), the department may establish the terms and conditions of the contract, lease, license, or other arrangement, and may fix the charges, rentals, or fees for the privileges, services, or things granted, conferred, or made available, for the purpose of meeting the expenditures of the statewide system of airports set forth in section 261-5(a), which includes expenditures for capital improvement projects approved by the legislature. Such charges shall be reasonable and uniform for the same class of privilege, service, or thing.

The department shall enter into separate contracts with no more than two persons ("contractors") for the sale and delivery of in-bond merchandise at Honolulu International Airport, in the manner provided by law. Each such contract shall confer the right to operate and maintain commercial facilities within the airport for the sale of in-bond merchandise and the right to deliver to the airport in-bond merchan-

dise for sale to departing foreign-bound passengers.

The department shall grant such contracts pursuant to the laws of this State and may take into consideration:

- (1) The payments to be made on in-bond merchandise sold at Honolulu International Airport and on in-bond merchandise displayed or sold elsewhere in the State and delivered to the airport;
- (2) The ability of the applicant to comply with all federal and state rules and regulations concerning the sale and delivery of in-bond merchandise; and
- (3) The reputation, experience, and financial capability of the applicant.

The department shall actively supervise the operation of the contractors to insure its effectiveness. The department shall develop and implement such guidelines as it may find necessary and proper to actively supervise the operations of such contractors, and shall include guidelines relating to the department's review of the reasonableness of contractors' price schedules, quality of merchandise, merchandise assortment, operations, and service to customers.

Apart from the contracts described above, during the period ending June 30, 1982, the department shall confer no right upon any person to offer to sell, sell, or deliver in-bond merchandise at Honolulu International Airport."

**SECTION 3.** 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 4.** Statutory material to be repealed is bracketed. New material is underscored.\*

**SECTION 5.** This Act shall take effect upon its approval and shall expire on June 30, 1982.

The foregoing became law on July 7, 1981, without the Governor's signature, pursuant to Art. III, §16, State Constitution.

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

# **PROPOSED CONSTITUTIONAL AMENDMENTS**

## **Proposed Constitutional Amendments**

**H.B. NO. 150**

A Bill for an Act Proposing an Amendment to Article I, Section 10, of the Constitution of the State of Hawaii to Permit Felony Trials After Preliminary Hearings.

*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 I, section 10, of the Constitution of the State of Hawaii to permit a person to be tried for a felony after a preliminary hearing has been held in which it was determined that there was probable cause the person committed the crime.

**SECTION 2.** Article I, section 10, of the Constitution of the State of Hawaii is amended to read as follows:

### **"INDICTMENT; PRELIMINARY HEARING; DOUBLE JEOPARDY; SELF-INCRIMINATION**

**Section 10.** No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury [.] or upon a finding of probable cause after a preliminary hearing held as provided by law, except in cases arising in the armed forces when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy; nor shall any person be compelled in any criminal case to be a witness against oneself."

**SECTION 3.** Constitutional material to be repealed is bracketed. New material is underscored.

**SECTION 4.** This amendment shall take effect upon compliance with Article XVII, section 3, of the Constitution of the State of Hawaii.

## **PROPOSED CONSTITUTIONAL AMENDMENTS**

**H.B. NO. 238**

**A Bill for an Act Proposing an Amendment to Article III, Section 9, of the Hawaii Constitution, to Provide for the Method of Payment of Legislative Salaries.**

*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 III, section 9, of the Constitution of the State of Hawaii to provide that the annual legislative salary which is determined by the commission on legislative salary, shall be payable in the installments and at such times as are provided by law. The current legislative salary plan, adopted by the 1978 commission on legislative salary, provides that over seventy-five per cent of the annual legislative salary be paid during February, March, and April, and the balance be paid in equal installments over the other nine months. The legislature finds that this method of payment results in a disproportionately large amount of tax which may be deducted from the salaries during legislative session months relative to the total annual salary. The legislature also finds that the small amounts paid in non-legislative session months might serve to place a legislator with little or no income other than the legislative salary in the incongruous position of being qualified for public assistance. The legislature finds neither of these results desirable.

This Act is not an attempt to change the authority granted to the commission on legislative salary to determine the annual salary, but would permit a more equitable method of payment to be determined by law.

**SECTION 2.** Article III, section 9, of the Constitution of the State of Hawaii is amended to read as follows:

### **"SALARY; ALLOWANCES; COMMISSION ON LEGISLATIVE SALARY**

**Section 9.** The members of the legislature shall receive allowances reasonably related to expenses as provided by law, and a salary prescribed pursuant to this section[.] which shall be payable in such installments and at such times as provided by law.

There shall be a commission on legislative salary which shall be appointed by the governor on or before November 30, 1978, and every eight years thereafter. Not later than the fortieth legislative day of the 1979 regular legislative session and every eight years thereafter, the commission shall submit to the legislature and the governor recommendations for a salary plan for members of the legislature, and then dissolve. The salary plan submitted shall become effective as provided in the plan unless the legislature disapproves the plan by adoption of a concurrent resolution prior to adjournment sine die of the legislative session in which the plan is submitted or the governor disapproves the plan by a message of disapproval transmitted to the legislature prior to such adjournment. Any change in salary which becomes effective shall not apply to the legislature to which the recommendation for the change in salary was submitted."

## **PROPOSED CONSTITUTIONAL AMENDMENTS**

SECTION 3. Constitutional material to be repealed is bracketed. New material is underscored.

SECTION 4. This amendment shall take effect upon compliance with Article XVII, section 3, of the Constitution of the State of Hawaii.



**1981**  
**FIRST SPECIAL SESSION**  
**LAWS**



**Session Laws of Hawaii  
Passed By The  
Eleventh State Legislature  
First Special Session  
1981**

ACT 1

H.B. NO. 1

A Bill for an Act Relating to the State Budget.

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

**PART I. GENERAL PROVISIONS**

SECTION 1. **Short title.** This Act shall be known and may be cited as the General Appropriations Act of 1981.

SECTION 2. **Definitions.** Unless otherwise clear from the context, as used in this Act:

(a) "Program ID" means the unique identifier for the specific program, and consists of the abbreviation for the organization responsible for carrying out the program, followed by the organization number for the program.

(b) "Expending agency" means the executive department, independent commission, bureau, office, board, or other establishment of the state government (other than the Legislature and the 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 & General Services
ATG	Department of Attorney General
BUF	Department of Budget & Finance
DEF	Department of Defense
EDN	Department of Education
GOV	Office of the Governor
HHL	Department of Hawaiian Home Lands
HTH	Department of Health
LBR	Department of Labor & Industrial Relations
LNR	Department of Land & Natural Resources
LTG	Office of the Lieutenant Governor
PED	Department of Planning & Economic Development
PER	Department of Personnel Services
REG	Department of Regulatory Agencies
SOC	Department of Social Services & Housing

## **ACT 1**

TRN Department of Transportation  
TAX Department of Taxation  
UOH University of Hawaii  
COH County of Hawaii  
CCH City & County of Honolulu  
COM County of Maui  
COK County of Kauai

(c) "Source of funding" means the source from which funds are appropriated to be expended for the programs and projects specified in this Act. All appropriations are followed by letter symbols. Such letter symbols, where used, shall have the following meaning:

- A general fund
- B special funds
- C general obligation bond fund
- D general obligation bond fund with debt service cost to be paid from special funds
- E revenue bond funds
- J federal aid interstate funds
- K federal aid primary funds
- L federal aid secondary funds
- M federal aid urban funds
- N other federal funds
- R private contributions
- S county funds
- T trust funds
- U interdepartmental transfers
- W revolving funds
- X other funds

(d) "Position ceiling" means the maximum number of permanent positions that an expending agency is authorized for a particular program during a specified period or periods, as denoted by an asterisk.

(e) "Capital project number" means the official number of the capital project, as assigned by the responsible organization.

## **PART II. PROGRAM APPROPRIATIONS**

**SECTION 3. Appropriations.** The following sums, or so much thereof, as may be sufficient to accomplish the purposes and programs designated herein, are hereby appropriated from the sources of funding specified to the expending agencies designated for the fiscal biennium beginning July 1, 1981 and ending June 30, 1983. The total expenditures and the number of positions in each fiscal year of the biennium shall not exceed the sums and the position ceilings indicated for each year, except as provided elsewhere in this Act.

Item No.	Program	Program ID	Exp. Agy.	APPROPRIATIONS			Total M Biennium 1981-83	M F
				FY 1981-82	FY 1982-83	FY 1982-83		
<b>A. ECONOMIC DEVELOPMENT</b>								
1.	COMMERCE AND INDUSTRY	PED 102	PED	16.00*	16.00*	3,218,657A 1,000,000W	6,443,347A 1,900,000W	
	Operating		PED PED	3,224,690A 900,000W				
2.	TRADE AND FINANCE	PED 105	PED	6.00*	6.00*	228,435A	451,424A	
	International Trade & Economic Cooperati							
3.	Foreign Trade Zone Services	PED 107	PED	26.00*	26.00*	825,233B	1,833,219B	
	Operating			1,007,986B				
4.	TOURISM	PED 113	PED	3.00*	3.00*	2,532,158A 1,309,000R 220,000X	6,262,804A 2,351,000R 425,000X	C
	Operating		PED PED PED	3,730,646A 1,042,000R 6,084,000C				
	Investment: Capital							
<b>AGRICULTURE</b>								
	Economic Assistance For Agriculture	AGR 101	AGR	13.00*	13.00*	431,666B 2,010,000W	877,895B 3,510,000W	
	Financial Assistance For Agriculture		AGR AGR	446,229B 1,500,000W				
5.	Operating							
6.	Price & Production Controls For Dairy Pr	AGR 103	AGR	8.00*	8.00*	175,411A	175,991A	351,402A
	Operating							

# ACT 1

Item No.	Program	Program ID	Exp. Agr.	APPROPRIATIONS			Total M 1981-83	M Biennium O 1981-83	F
				FY 1981-82	M 0	M FY 1982-83			
<b>Productivity Imprmnt &amp; Mgt Assnrc For Agr</b>									
7.	Plant Pest and Disease Control Plant Quarantine	AGR 121		42.15*		42.15*	42.15*	1,685,501A	
	Operating		AGR AGR	841,175A 522,068U		844,326A 535,299U	844,326A 535,299U	1,057,367U	
8.	Plant Pest Control	AGR 122		26.35*		26.35*	26.35*	1,453,012A	
	Operating		AGR	728,558A		724,454A	724,454A		
9.	Animal Pest and Disease Animal Quarantine	AGR 131		38.00*		38.00*	38.00*	1,962,496A	
	Operating		AGR AGR	975,726A 64,131U		986,770A 64,131U	986,770A 64,131U	128,262U	
10.	Animal Disease Control	AGR 132		22.50*		22.50*	22.50*	1,397,236A	
	Operating		AGR AGR	703,248A 33,193T		693,988A 33,911T	693,988A 33,911T	67,104T	
11.	Product Development and Marketing For Agr Forestry—Products Development	LNR 172		30.00*		30.00*	30.00*	1,733,011A	
	Operating		LNR LNR	874,341A 102,700N		858,670A 102,700N	858,670A 102,700N	205,400N	
12.	Distribution Systems Improvement For Agr	AGR 151		35.00*		35.00*	35.00*	1,547,426A	
	Operating		AGR AGR AGR	754,406A 126,330B 22,970N		793,020A 127,350B 22,970N	793,020A 127,350B 22,970N	45,940N	

13.	General Support For Agr Data Collection For Agr	AGR 189		12.00*	303,784A	
	Operating	AGR	308,844A		612,628A	
14.	General Administration For Agr	AGR 192		31.00*	728,40A	
	Operating	AGR	826,351A		1,554,752A	
	Investment: Capital	AGS	3,237,000C	C	3,237,000C	
15.	FISHERIES & AQUACULTURE Financial Assistance For Aquaculture	AGR 102	AGR	200,000W	25,000W	225,000W
	Operating					
16.	Commercial Fishery and Aquaculture	LNR 153		17.00*	1,577,345A	
	Operating	LNR	1,588,069A		3,165,414A	
	Investment: Capital	LNR	830,750N		1,619,750N	
		LNR	40,000C	C	40,000C	
17.	ENERGY DEVELOPMENT AND MANAGEMENT	PED 120		9.00*	506,434A	
	Operating	PED	473,512A		527,380B	
	Investment: Capital	PED	255,950B		885,278N	
		PED	858,832N		C	
		PED	1,490,000C	C	1,490,000C	
		PED	289,000N	N	289,000N	
18.	WATER DEVELOPMENT & IRRIGATION SERVICES	LNR 141		19.00*	606,764A	
	Operating	LNR	602,139A		1,208,903A	
	Investment: Capital	LNR	137,000B		274,000B	
		LNR	3,425,000C	C	3,425,000C	

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Item No.	Program	Program ID	Exp. Agy.	APPROPRIATIONS			Total M Biennium O 1981-83 F
				FY M 1981-82 F	FY O 1982-83 F	FY M 1982-83 F	
<b>ECON PLANNING &amp; COORD FOR ECON DEVELOPMEN</b>							
19.	Econ Planning & Research For Econ Devpt Operating	PED 130		13.00*	13.00*	375,401A	747,567A
20.	General Support For Marine Programs Operating	PED 109	PED	372,166A			
21.	General Support For Economic Development Operating	PED 142	PED	562,842A	4.00*	548,109A	1,110,951A
					22.00*	696,295A	1,373,805A
<b>B. EMPLOYMENT</b>							
<b>FULL OPPORTUNITY TO WORK</b>							
1.	Placement Services Operating	LBR 111		3.00*	3.00*	59,333A	117,880A
				58,547A	200.00*	7,269,342N	7,385,311N
2.	Apprenticeship & Other Training Programs Operating	LBR 123	LBR	7.00*	7.00*	151,111A	300,065A
3.	Employment and Training Programs Operating	LBR 131	LBR	136,977A	136,977A		273,954A
				15.00*	15.00*		11,284,657N
							22,569,314N

4.	Commission On Manpower and Full Employee	LBR 135		6.00*	6.00*	
	Operating	LBR LBR	120,907A 12,038N	119,417A 114,815N	240,324A 236,853N	
5.	OCCUPATIONAL SAFETY & HEALTH	LBR 143		50.50*	50.50*	
	Operating	LBR LBR	1,096,006A 29.50*	1,111,103A 825,109N	2,207,109A 1,638,984N	
6.	FAIR AND JUST EMPLOYMENT PRACTICES Wage Standards & Fair Employment Practice	LBR 152		29.00*	29.00*	
	Operating	LBR LBR	588,930A 40,000N	594,420A 40,000N	1,183,350A 80,000N	
7.	LABOR-MANAGEMENT RELATIONS Public Employment	LBR 161		3.00*	3.00*	
	Operating	LBR	40,138A	41,324A	814,705A	
8.	Private Employment	LBR 162		1.50*	1.50*	
	Operating	LBR	48,369A	48,809A	97,178A	
9.	ASSISTANCE IN WORK RELATED DIFFICULTIES Unemployment Compensation	LBR 171		2,700,000A 100,306,800B	2,900,000A 100,306,800B	5,600,000A 200,613,600B
	Operating	LBR	6,121,533N	6,252,502N	12,374,035N	
10.	Disability Compensation	LBR 183		86.00*	86.00*	
	Operating	LBR LBR	1,683,497A 6,529,000B	1,683,608A 7,329,000B	3,369,105A 13,858,000B	

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Item No.	Program	Program ID	Exp. Acy.	APPROPRIATIONS			Total M Biennium 1981-83
				FY 1981-82	FY 1982-83	FY 1981-83	
11.	Vocational Rehabilitation	SOC 802		33.70*	33.70*	33.70*	
	Operating	SOC	1,791,311A	1,806,044A	1,806,044A	3,597,355A	
		SOC	350,000B	400,000B	400,000B	750,000B	
		SOC	93.30*	93.30*	93.30*	93.30*	
			3,656,539N	3,628,937N	3,628,937N	7,285,476N	
12.	OVERALL PROGRAM SUPPORT DLIR-Data Gathering, Research and Analysis	LBR 901		8.40*	8.40*	8.40*	
	Operating	LBR	539,903A	468,916A	468,916A	1,008,819A	
		LBR	30.60*	30.60*	30.60*	30.60*	
		LBR	1,021,293N	991,782N	991,782N	2,013,075N	
13.	General Administration	LBR 902		23.20*	23.20*	23.20*	
	Operating	LBR	459,467A	468,815A	468,815A	928,282A	
		LBR	38.30*	38.30*	38.30*	38.30*	
		LBR	1,444,545N	1,470,931N	1,470,931N	2,915,476N	
14.	Labor & Industrial Relations, Appeals Board	LBR 812		8.00*	8.00*	8.00*	
	Operating	LBR	272,731A	275,362A	275,362A	548,093A	
<b>C. TRANSPORTATION FACILITIES</b>							
AIR TRANSPORTATION FACILITIES AND SVCS							
1.	HIA Facilities & SVCS	TRN 102		443.00*	443.00*	443.00*	
	Operating	TRN	25,476,550B	26,069,502B	26,069,502B	51,546,152B	
	Investment: Capital	TRN	10,500,000B	13,700,000B	13,700,000B	24,200,000B	

2.	General Aviation Facilities and Services Operating Investment: Capital	TRN 104	TRN TRN	31,540,000E 200,000N	22,710,000E N	54,250,000E 200,000N
3.	General Lyman Field Facilities & Service Operating Investment: Capital	TRN 111	TRN TRN	1.00* 74,662B 5,000,000E	79,127B E	153,789B 5,000,000E
4.	Ke-ahole Airport Facilities and Services Operating Investment: Capital	TRN 114	TRN TRN	76.00* 3,591,999B 60,000E	3,541,316B 600,000E	7,133,315B 660,000E
5.	Waimea-Kohala Airport Facilities & Servi Operating	TRN 116	TRN	52.00* 2,095,550B 3,690,000E	1,943,681B 1,500,000E	4,039,231B 5,190,000E
6.	Upolu Airport Facilities & Services Operating	TRN 118	TRN	4.00* 536,887B	336,608B	873,495B
7.	Kahului Airport Facilities and Services Operating Investment: Capital	TRN 131	TRN TRN TRN	69.00* 2,576,940B 9,500,000E 500,000N	2,375,417B 7,500,000E 500,000N	69.00* 4,952,357B 17,000,000E 1,000,000N
8.	Hana Airport Facilities and Services Operating	TRN 133	TRN	1.00* 100,660B	34,589B	135,249B
9.	Molokai Airport Facilities and Services Operating	TRN 141	TRN	7.00* 1,129,861B	400,837B	1,530,698B

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Item No.	Program	Program ID	Exp. Agy.	APPROPRIATIONS			Total M 1981-83 F	Biennium O 1981-83 F
				FY 1981-82 F	M 0	FY 1982-83 F		
10.	Kalaupapa Airport Facilities and Service Operating	TRN 143		1.00*		1.00*	100,660B	
			TRN	76,819B		23,841B		
11.	Lanai Airport Facilities and Services Operating	TRN 151		4.00*		4.00*	492,252B	
			TRN	348,961B		143,291B		
12.	Lihue Airport Facilities and Services Operating Investment: Capital	TRN 161		57.00*		57.00*	3,855,765B	
			TRN	1,977,111B		1,878,634B		
			TRN	9,250,000E		2,000,000E		
			TRN	2,400,000N		N		
							11,250,000E	
							2,400,000N	
13.	Port Allen Airport Facilities and Service Operating	TRN 163		810B		810B	1,620B	
			TRN					
14.	Air Transportation Facilities & Svcs Sup Operating Investment: Capital	TRN 195		61.00*		61.00*	98,792,738B	
			TRN	44,849,836B		53,942,902B		
			TRN	500,000B		300,000B		
			TRN	500,000E		1,800,000E		
			TRN	N		200,000N		
							2,300,000E	
							200,000N	
<b>WATER TRANSPORTATION FACILITIES AND SERV</b>								
15.	Honolulu Harbor Facilities and Services Operating Investment: Capital	TRN 301		130.00*		130.00*	5,717,517B	
			TRN	5,438,389B		1,113,000B		
			TRN	2,650,000C		C		
			TRN	5,755,000E		E		
							11,155,906B	
							2,301,000B	
							2,650,000C	
							5,755,000E	

16.	<b>Barbers Point Harbor Facilities and Serv</b>	TRN 303	TRN TRN	1,200,000E 74,100,000N	E N	1,200,000E 74,100,000N
17.	<b>Kewalo Basin Facilities and Services</b>	TRN 305	TRN	200* 245,144B	2.00* 250,625B	495,769B
18.	<b>Hilo Harbor Facilities and Services</b>	TRN 311	TRN TRN	10.00* 573,975B 385,000B	10.00* 613,301B B	1,187,276B 385,000B
19.	<b>Kawaihae Harbor Facilities and Services</b>	TRN 313	TRN TRN	5.00* 201,013B 213,000B	5.00* 200,389B B	401,402B 213,000B
20.	<b>Kahului Harbor Facilities and Services</b>	TRN 331	TRN TRN	12.00* 520,737B 430,000B	12.00* 512,756B B	1,033,493B 430,000B
21.	<b>Kaunakakai Harbor Facilities and Service</b>	TRN 341	TRN	1.00* 71,819B	1.00* 62,100B	133,919B
22.	<b>Nawiliwili Harbor Facilities and Service</b>	TRN 361	TRN TRN	11.00* 445,808B 135,000B	11.00* 456,678B 1,220,000B	902,486B 1,355,000B
23.	<b>Port Allen Harbor Facilities and Service</b>	TRN 363	TRN	1.00* 67,222B	1.00* 71,295B	138,517B

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Item No.	Program	Program ID	Exp. Agy.	APPROPRIATIONS			Total M Biennium O 1981-83 F
				FY 1981-82 M	FY 0 1982-83 F	FY 0 1982-83 F	
24.	Water Transportation Fac & Svcs Support	TRN 395		49,00*	11,412, 692B 50,000B	49,00*	22,304,659B 200,000B
	Operating			10,891,967B 150,000B			
	Investment: Capital						
<b>LAND TRANSPORTATION FACILITIES AND SERVI</b>							
25.	Oahu Highways and Services	TRN 501		212,00*	16,205,577B 427,000B	212,00*	31,591,514B 834,000B
	Operating			15,385,937B 427,000B			
	Investment: Capital			11,237,000D 60,997,000J		D	11,237,000D 60,997,000J
				2,348,000K 1,150,000M		J	2,348,000K 1,150,000M
						K	
						M	
26.	Hawaii Highways and Services	TRN 511		106,00*	4,792,852B 273,000B	106,00*	9,390,014B 567,000B
	Operating			4,597,162B 294,000B		D	1,769,000D 2,656,000N
	Investment: Capital			1,769,000D 2,656,000N		N	1,769,000D 2,656,000N
27.	Maui Highways and Services	TRN 531		53,00*	2,510,456B 385,000B	53,00*	5,261,680B 770,000B
	Operating			385,000B		D	1,864,000D 3,383,000K
	Investment: Capital			1,864,000D 3,383,000K		K	

28.	Molokai Highways and Services	TRN 541		12.00*	886,090B 25,000B	889,242B 250,000B	1,775,332B 275,000B
	Operating						
	Investment: Capital		TRN				
29.	Lanai Highways and Services	TRN 551	TRN	3.00*	151,603B 15,000B	193,983B 150,000B	345,586B 165,000B
	Operating						
	Investment: Capital		TRN				
30.	Kauai Highways and Services	TRN 561		41.00*	2,393,346B 160,000B	2,490,269B 247,000B	4,883,615B 407,000B
	Operating						
	Investment: Capital		TRN				
31.	Land Transportation Fac & Svcs Support	TRN 595		46.00*	20,913,522B 720,000B 625,000D 2,545,000N	22,557,355B 816,000B D 1,122,000N	43,470,877B 1,536,000B 625,000D 3,667,000N
	Operating						
	Investment: Capital		TRN				
32.	Safety Administration of Land Transporta	TRN 597		17.50*	478,951B 6.50*	464,418B 6.50*	943,369B
	Operating		TRN				
33.	OVERALL PROGRAM SUPPORT FOR	TRN 995		82.00*	147,965N	147,387N	295,352N
	TRANS FAC &						
	Operating		TRN				

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Item No.	Program	Program ID	Exp. Agy.	APPROPRIATIONS			Total M Biennium O 1981-83 F
				FY M 1981-82 F	FY O 1982-83 F	FY N 1982-83 F	
<b>D. ENVIRONMENTAL PROTECTION</b>							
1.	POLLUTION CONTROL	HTH 840		44.50*	44.50*		
	Solids, Liquids, Gases, and Noise			878,205A	881,717A		1,759,922A
	Operating	HTH		11.00*	11.00*		
		HTH		1,114,906N	1,153,473N		2,268,379N
		HTH		3,920,000C	C		3,920,000C
2.	Investment: Capital	AGR 846		9.50*	9.50*		
	Pesticides	AGR		174,229A	180,559A		354,788A
3.	PRESERVATION AND ENHANCEMENT	LNR 401		2.00*	2.00*		
	Aquatic Resources	LNR		18,699A	18,579A		37,278A
	Operating	LNR		18,980N	19,265N		38,245N
4.	Forest and Wildlife Resources	LNR 402		48.00*	48.00*		
	Operating	LNR		1,151,008A	1,152,023A		2,303,031A
		LNR		344,850N	347,550N		692,400N
5.	Mineral Resources	LNR 403		2.00*	2.00*		
	Operating	LNR		42,366A	42,741A		85,107A
6.	Water Resources	LNR 404		12.00*	12.00*		
	Operating	LNR		948,109A	953,361A		1,901,470A
		LNR		229,250N	229,250N		458,500N
	Investment: Capital	LNR		600,000C	C		600,000C

7.	Conservation & Resources Enforcement	LNR 405		66.00*	68.00*	
	Operating	LNR LNR	~	1,602,471A 4,522N	1,494,582A 4,918N	3,097,054A 9,440N
8.	Coastal Areas Operating	TRN 903	TRN	10,900A	11,775A	22,675A
<b>GENERAL SUPPORT FOR NAT PHYS ENVIRONMENT</b>						
9.	Policy Devpt, Coord & Anlys for Nat P	HTH 850		11.00*	11.00*	
	Operating	HTH		249,808A	260,552A	510,360A
10.	LNR—Natural Physical Environment	LNR 906		30.00*	30.00*	
	Operating	LNR LNR		802,673A 20,832N	817,115A 21,207N	1,619,788A 42,039N
11.	HTH—Natural Physical Environment	HTH 849		8.00*	8.00*	
	Operating	HTH		484,134A 3.00*	503,554A 3.00*	987,688A
		HTH		167,890N	166,118N	334,008N
<b>E. HEALTH</b>						
<b>PHYSICAL HEALTH</b>						
Communicable Diseases						
Tuberculosis						
1.		HTH 101		44.00*	44.00*	
	Operating	HTH		1,051,218A	1,091,533A	2,142,751A
2.	Leprosy	HTH 111		78.00*	78.00*	
	Operating	HTH HTH AGS		2,754,216A 126,000B 100,000C	2,800,365A 126,000B C	5,554,581A 252,000B 100,000C
Investment: Capital						

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Item No.	Program	Program ID	Exp. Acy.	APPROPRIATIONS			Total M Biennium 1981-83 F
				FY M 1981-82 F	FY O 1982-83 F	Total M Biennium 1981-83 F	
3.	Venereal Disease Operating	HTH 121		10.00*	10.00*	10.00*	629,102A
			HTH	308,368A 4.00*	320,734A 4.00*	176,607N	
4.	Other Communicable Diseases Operating	HTH 131		10.00*	10.00*	10.00*	628,764A
			HTH	308,979A 2.00*	319,785A 2.00*	103,067N	
5.	Supporting Services for Common Diseases Operating	HTH 139		5.00*	5.00*	5.00*	202,142N
			HTH	103,207A	103,618A	103,207A	
6.	Dental Diseases Operating	HTH 141		46.20*	46.20*	46.20*	206,825A
			HTH	818,175A	814,240A	814,240A	
7.	Chronic Diseases Operating	HTH 151		5.00*	5.00*	5.00*	1,632,415A
			HTH	570,247A	608,642A	608,642A	
8.	Nutrition Services Operating	HTH 160		7.25*	7.25*	7.25*	1,178,889A
			HTH	131,566A 7.00*	134,534A 7.00*	134,534A 7.00*	
			HTH	2,917,614N	793,604N	793,604N	266,100A 3,711,218N

9.	Emergency Medical Services Operating	HTH 170		10.00*	10.00*		
		HTH	HTH	10,451,843A 625,000N	10,278,852A N		20,730,695A 625,000N
10.	Family Planning Operating	HTH 185		2.00*	2.00*		
		HTH	HTH	80,613A 14.00*	80,459A 14.00*		161,072A
		HTH	HTH	1,138,612N	1,151,161N		2,289,773N
11.	School Health Services Operating	HTH 191		215.15*	215.80*		
		HTH	HTH	3,516,216A	3,544,292A		7,060,508A
12.	Health Care Services Operating	HTH 801		43.00*	43.00*		
		HTH	HTH	1,869,726A 59.00*	1,954,307A 59.00*		3,824,033A
		HTH	AGS	1,925,881N 200,000C	1,943,338N C		3,869,219N 200,000C
13.	HOSPITAL CARE Hilo Hospital Operating	HTH 211		1,061,170A 537.20*	614,926A 538.20*		1,676,096A
		HTH	AGS	12,725,000B 125,000C	12,840,000B C		25,565,000B 125,000C
14.	Honokaa Hospital Operating	HTH 212		489,621A 648,879B	499,739A 665,909B		989,360A 665,909B
		HTH	HTH				1,314,788B
15.	Kau Hospital Operating	HTH 213		449,546A 32.00*	451,020A 32.00*		900,566A

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				FY 1981-82 M	FY 1982-83 M	C	
16. Kohala Hospital Operating	Investment: Capital	HTH 214	HTH AGS	329,930B 250,000C	333,300B C		663,230B 250,000C
			HTH	516,822A 36.50*	469,184A 410,145B	36.50* 410,145B	986,006A 820,290B
17. Kona Hospital Operating	Investment: Capital	HTH 215	HTH	1,473,601A 188.00*	1,444,929A 3,200,000B	188.00* 3,300,000B	2,918,530A 6,500,000B
			HTH				
18. Maui Memorial Hospital Operating		HTH 221	HTH	1,486,231A 417.00*	1,996,565A 9,745,257B	420.00* 9,745,257B	3,482,796A 19,490,514B
			HTH				
19. Hana Medical Center Operating		HTH 222	HTH	208,210A 7.00*	212,039A 81,084B	7.00* 81,084B	420,249A 162,168B
			HTH				
20. Kula Hospital Operating		HTH 223	HTH	1,147,057A 177.00*	1,205,511A 2,633,802B	177.00* 2,633,802B	2,352,568A 5,267,604B
			HTH				
21. Lanai Hospital Operating		HTH 224	HTH	245,222A 21.00*	99,332A 422,650B	21.00*	344,554A 455,200B
			HTH				

22.	Kauai Veterans Memorial Hospital Operating	HTH 231	HTH	1,178,009A 138,00*	1,270,204A 138,00*	2,448,213A
			HTH	2,500,000B	2,500,000B	5,000,000B
23.	Samuel Mahelona Memorial Hospital Operating	HTH 232	HTH	1,386,485A 141,00*	1,576,199A 141,00*	2,962,684A
			HTH AGS	1,525,576B 566,000C	1,525,576B 566,000C	3,051,152B 566,000C
24.	Maluhia Hospital Operating	HTH 241	HTH	462,809A 180,00*	452,717A 180,00*	915,526A
			HTH	3,718,000B	3,738,000B	7,456,000B
25.	Leahi Hospital Operating	HTH 242	HTH	2,399,641A 303,00*	2,483,630A 303,00*	4,883,271A
			HTH	4,813,041B	4,813,041B	9,626,052B
<b>MENTAL HEALTH</b>						
26.	Community Based Services for MH Operating	HTH 401	HTH	367,00*	367,00*	367,00*
			HTH	9,501,495A 6,00*	9,536,352A 6,00*	19,037,847A
27.	Hawaii State Hospital	HTH 430	HTH	3,168,798N	2,811,503N	5,980,301N
28.	General Support for MH Operating	HTH 495	HTH AGS	358,00*	359,00*	15,355,647A
				7,684,027A 338,000C	7,671,620A 338,000C	338,000C

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Item No.	Program	Program ID	Exp. Agy.	APPROPRIATIONS			Total M 1981-83 F	Total M 1982-83 F	Total M 1981-83 F
				FY 1981-82 F	FY 1981-82 O	FY 1982-83 F			
<b>MENTAL RETARDATION</b>									
29.	Identification, Evaluation & Treatment for Operating	HTH 500		52.35*		52.35*		4,113,485A	
		HTH	2,027,240A	2,086,245A		22.20*			
		HTH	656,478N	656,478N				1,312,956N	
30.	Community Based Services for MR Operating	HTH 501		44.00*		44.00*		3,276,252A	
		HTH	1,628,069A	1,648,183A		10.00*			
		HTH	160,074N	160,074N				320,148N	
31.	Waimano Training School and Hospital Operating	HTH 511		573.00*		573.00*		19,913,485A	
		HTH	9,899,798A	10,013,687A		90,880N		181,760N	
		HTH	90,880N	90,880N		4,785,000X		9,770,000X	
<b>COMMUNITY HEALTH SERVICES</b>									
32.	Vector Control Operating	HTH 601		86.00*		86.00*		1,465,106A	
		HTH	1,476,611A	1,476,611A		2.00*		2.00*	
		HTH				27,409X		27,661X	
33.	Sanitation & Substance Control Operating	HTH 611		85.50*		85.50*		55,070X	
		HTH	1,752,273A	1,744,502A				3,496,775A	

34.	Drinking Water Quality	HTH 621		3.00*	58,015A	116,030A
	Operating	HTH	58,015A	1.00*	271,572N	542,556N
		HTH	1.00*			
35.	Medical Facilities-Std, Inspection, Licensure	HTH 701		8.00*	176,986A	353,515A
	Operating	HTH	176,529A	5.60*	217,073N	434,146N
		HTH	5.60*			
	<b>OVERALL PROGRAM SUPPORT</b>					
36.	Laboratory Services	HTH 901		54.50*	1,018,529A	2,037,743A
	Operating	HTH	1,019,214A			
37.	Public Health Nursing Services	HTH 902		139.00*	2,869,295A	5,744,690A
	Operating	HTH	2,869,295A	4.00*	86,243N	172,486N
		HTH	4.00*			
38.	Records, Data Collection and Research	HTH 903		36.00*	17,824B	35,648B
	Operating	HTH	759,387A		86,243N	172,486N
		HTH				
39.	Health Education	HTH 908		17.00*	620,955A	1,229,885A
	Operating	HTH	608,930A		343,129N	666,364N
		HTH				
40.	Comprehensive Health Planning	HTH 906		6.00*	166,441A	334,268A
	Operating	HTH	166,441A	25.00*	901,296N	1,806,885N
		HTH	25.00*			

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Item No.	Program	Program ID	Exp. Agy.	APPROPRIATIONS			Total M Biennium O 1981-83 F
				FY M 1981-82 F	FY M 1982-83 F	Total M Biennium O 1981-83 F	
41. General Administration		HTH 907		123.00*	123.00*	6,049,352A	
	Operating	HTH	2,994,120A 13.00*	3,055,232A 13.00*			
		HTH	809,257B	844,528B	1,653,785B		
		HTH	332,579N AGS	5.50* 1,472,000C	333,382N C	5.50* 665,962N 1,472,000C	
	Investment: Capital						
42. Private Hospitals & Medical Services		SUB 601	HTH	278,603A	182,653A	461,256A	
	Operating						
<b>F. SOCIAL SERVICES</b>							
1. SERVICES TO INDIVIDUALS AND FAMILIES		SOC 111		81.33*	81.33*	5,295,271A	10,373,152A
	Operating	SOC	5,077,881A 187.67*	187.67*		13,861,045N 104,464R 279,641U	27,130,572N 111,068R 279,960U
		SOC	13,269,527N				215,532R 559,601U
		SOC					
<b>ASSURED STANDARD OF LIVING</b>							
2. Monetary Assistance for General Needs		SOC 201		48,356,724A 49,046,476N	50,783,044A 51,433,415N	99,139,768A 100,479,891N	
	Payments to Assist Families with Depndt	SOC					
	Operating						
3. Payments to Assist the Aged, Blind & Disa		SOC 202		7,544,553A 486,316N	7,959,916A 486,316N	15,504,469A 972,632N	
	Operating	SOC					

4.	Payments to Assist in Child Welfare Foster Operating	SOC 203	SOC SOC	1,601,532A 141,872N	1,728,996A 150,703N	3,330,528A 292,575N
5.	Other General Assistance Payments Operating	SOC 204	SOC SOC	17,634,508A 6,553,824N	18,310,152A 6,750,051N	35,964,660A 13,343,875N
6.	Housing Assistance Rental Housing Augmentation and Assistance Operating	SOC 220	SOC	11.00* 3,186,151A 26.50* 1,094,073B 13,941,301N 1,150,000C	11.00* 3,567,772A 26.50* 1,156,983B 177.00* 14,837,451N C	6,753,923A 2,251,056B 28,798,752N 1,150,000C
7.	Investment: Capital Private Housing Development & Ownership Operating	SOC 225	SOC	17.00* 552,921B	17.00* 569,496B	1,122,417B
8.	Broadened Homeste此 Ownership Operating	SOC 223	SOC	1.00* 58,552A	1.00* 58,711A	117,263A
9.	Teacher Housing Operating	SOC 807	SOC	5.50* 148,269B	5.50* 152,829B	301,098B
10.	Housing Assistance Administration Operating	SOC 229	SOC	4.00* 67,318A 9.50* 283,735B 14.50* 380,191N	4.00* 68,147A 9.50* 289,349B 14.50* 384,558N	135,465A 573,684B 764,749N

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Item No.	Program	Program ID	Exp. Agy.	APPROPRIATIONS			Total M 1981-83 F	Biennium O 1981-83 F
				FY 1981-82 F	M 1981-82 F	O 1982-83 F		
11.	Health Care Payments Operating	SOC 230	SOC	76,595,461A	84,247,973A	160,843,434A		
			SOC	59,563,766N	65,211,714N	124,775,480N		
			SOC	4,785,313U	4,985,313U	9,770,626U		
12.	Veterans Cemeteries and Burial Payments Operating	SUB 806	HTH	36,250A	36,250A	72,500A		
13.	General Support for Assured Std of Livin Eligibility Determination Operating	SOC 236	SOC	373.16*	373.16*	12,343,676A		
			SOC	6,109,488A	6,234,188A			
			SOC	285.84*	285.84*			
			SOC	6,981,118N	7,271,773N	14,252,891N		
14.	Disability Determination Operating	SOC 238	SOC	51.00*	51.00*	1,590,492N	3,123,887N	
	SERVICES TO NATIVE HAWAIIANS			1,533,395N				
15.	Plnng, Devpmt and Mgt for Hawn Homest L Operating Investment: Capital	HHL 602	HHL	40.50*	40.50*	957,966B	1,806,257B	
			HHL	848,291B		C	6,220,000C	
			HHL	6,220,000C		N	1,800,000N	
16.	General Support for Native Hawaiians Operating	HHL 625	HHL	24.00*	24.00*	737,119B	1,458,315B	
	OVERALL PROGRAM SUPPORT FOR SOCIAL SERVI							

17.	Progressive Neighborhoods Program	GOV 859		5.00*	5.00*	
	Operating	GOV	1,621,850A 372,900N		586,424A 396,953N	
18.	Hawaii Office of Economic Opportunity	GOV 860		3.00*	3.00*	
	Operating	GOV	1,675,812A 3.00*		766,789A 3.00*	
		GOV	116,000N		116,000N	
19.	Plan, Prgm Dev & Coord of Svcs for Chd &	GOV 861		9.00*	9.00*	
	Operating	GOV	287,625A 70,000N		332,698A N	
20.	Plan, Prgm Dev & Coord of Svcs for Elder	GOV 602		5.80*	5.80*	
	Operating	GOV	1,365,816A 8.20*		1,426,955A 8.20*	
		GOV	4,871,833N		5,134,190N	
21.	Plan, Prgm Dev & Coord of Svcs for Handi	HTH 520		2.00*	2.00*	
	Operating	HTH	123,652A		145,993A	
22.	Plan, Prgm Dev & Coord of Svcs for Immig	GOV 803		4.00*	4.00*	
	Operating	GOV	195,866A		188,250A	
23.	General Support for Public Welfare	SOC 903		30.40*	30.40*	
	Operating	SOC	1,955,822A 49,60*		2,065,868A 49,60*	
		SOC	3,024,672N		3,177,599N	
						6,202,271N

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Item No.	Program	Program ID	Exp. Agy.	APPROPRIATIONS			Total M Biennium 0 1981-83 F
				FY M 1981-82 F	FY O 1982-83 F	Total M Biennium 0 1981-83 F	
24. General Administration (DSSH)		SOC 904		150,77*	150,77*	5,480,347A	5,480,347A
				SOC	2,707,223A 20,23*	2,773,124A 20,23*	
				SOC	581,335N	593,676N	1,175,011N
<b>G. FORMAL EDUCATION</b>							
<b>LOWER EDUCATION</b>							
Instruction							
1.	Regular Instruction Program	EDN 105		6,276,50*	6,217,50*	C	277,332,605A 28,845,316N 19,946,000C
	Operating	EDN	139,113,796A	138,218,809A	14,422,658N		
	Investment: Capital	EDN	14,422,658N	14,422,658N	C		
2.	Other Regular Instruction Programs	EDN 106		549,50*	549,50*	C	31,076,446A 1,999,198B 191,845N
	Operating	EDN	15,647,892A	15,428,554A	999,599B		
	Investment: Capital	EDN	999,599B	95,011N	96,834N		
3.	Exceptional Child Program	EDN 107		961,50*	963,50*	C	43,137,086A 90,676B 5,282,245N 100,000C
	Operating	EDN	21,413,429A	21,723,657A	53,170B		
	Investment: Capital	EDN	37,506B	2,626,353N	2,626,353N		
4.	Compensatory Education	EDN 108		108,00*	108,00*	C	14,588,054A 7,211,844A 16,218,112N 32,184,851N
	Operating	EDN	7,376,210A	7,211,844A	15,966,739N		
	Instructional Administration and Support						

5.	School Administration Operating	EDN 203		800.50*	800.50*		
			EDN	18,029,818A	18,178,695A		36,208,513A
6.	Instructional Media Operating	EDN 204		261.50*	261.50*		
			EDN EDN	7,043,755A 878,190N	7,172,093A 957,907N	14,215,848A 1,836,097N	
7.	Instructional Development Operating	EDN 205		109.00*	109.00*		
			EDN EDN	4,968,031A 1,370,492N	5,016,319A 1,340,755N	9,984,350A 2,711,247N	
8.	Counseling Operating	EDN 206		311.50*	311.50*		
			EDN	7,201,984A	7,232,324A	14,434,308A	
9.	Student Activities Operating	EDN 207					
			EDN	2,358,973A	2,474,617A	4,833,590A	
10.	Psychological & School Social Work Service Institutional Administration and Support	EDN 208		164.00*	164.00*		
			EDN	4,090,405A	4,180,716A	8,271,121A	
11.	State Administration Operating	EDN 303		211.00*	211.00*		
			EDN EDN	6,289,651A 562,695N	6,464,485A 543,612N	12,754,136A 1,106,307N	
12.	District Administration Operating	EDN 304		216.00*	216.00*		
			EDN	6,621,120A	6,657,537A	13,278,657A	

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Item No.	Program	Program ID	Exp. Agt.	APPROPRIATIONS			Total M Biennium 1981-83 F
				M FY 1981-82 F	M FY 0 1982-83 F	M FY 0 1982-83 F	
13.	School Food Services Operating	EDN 305		199.50*	11,303,359A	199.50*	22,225,536A
			EDN	10,922,177A	711.50*	711.50*	
			EDN	6,525,504B	6,513,775B	13,039,279B	
			EDN	12,242,587N	12,938,154N	25,180,741N	
14.	Safety and Security Services Operating	EDN 306	EDN	2,082,324A	2,165,215A	4,247,539A	
15.	Physical Plant Operations & Maintenance- Operating	EDN 307	EDN	1,012.10*	1,014.10*	47,259,884A	
16.	Physical Plant Operations & Maintenance- Operating	AGS 807	EDN	22,927,089A	24,332,795A		
17.	Student Transportation Operating Public Service	AGS 808	AGS	12,989,344A	13,344,612A	26,333,956A	
18.	Adult Education Operating	EDN 406	AGS	13,248,941A	7.00*	15,238,531A	28,487,472A
			EDN	23.00*	1,990,177A	23.00*	3,959,987A
			EDN	1,969,810A	1.00*	1,00*	
			EDN	333,115B	354,966B	354,966B	688,081B
			EDN	1.00*	1.00*	1.00*	
				480,653N	491,394N	491,394N	972,047N
19.	Public Libraries		EDN 407				

Operating	EDN	436.55*	436.55*	10,109,796A	19,773,293A	
	EDN	9,663,497A		490,130N	980,260N	
Investment: Capital	AGS	490,130N		490,130N	2,395,000C	C
<b>HIGHER EDUCATION</b>						
University of Hawaii, Manoa						
20.	Instruction - UOH, Manoa	UOH 101				
	Operating	UOH	1,519,39*	1,519,39*	44,734,140A	89,025,658A
			44,291,518A		8,00*	
		UOH	8,00*		3,765,244B	7,300,564B
					4,15*	
		UOH	3,535,320B		597,112N	1,200,143N
	Investment: Capital	AGS	603,031N			4,848,000C
			4,848,000C		C	
21.	Organized Research—UOH, Manoa Research and Development	UOH 102				
	Operating	UOH	300,000A	300,000A	477,22*	600,000A
			477,22*		16,522,973A	
		UOH	15,836,077A		34,42*	32,359,050A
					34,42*	
		UOH	1,342,481N		1,342,481N	2,684,962N
		UOH	845,000W		850,000W	1,695,000W
	Investment: Capital	AGS	1,140,000C		C	1,140,000C
22.	Public Service - UOH, Manoa	UOH 103				
	Operating	UOH	90,41*	90,41*	3,274,257A	6,532,064A
			3,257,807A		6,00*	
		UOH	6,00*		1,364,877B	2,636,589B
					43,64*	
		UOH	1,167,526N		1,167,526N	2,335,052N
		UOH	40,000W		40,000W	80,000W

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Item No.	Program	Program ID	Exp. Av.	APPROPRIATIONS			Total M Biennium 1981-83	F
				FY 1981-82	M FY 1982-83	M FY 0		
23.	Academic Support - UOH, Manoa Operating	UOH 104	UOH	352.77*	352.77*	10,546,853A	20,788,226A	
				10,241,373A	10,00*	10,00*	1,376,375B	
				669,249B	6,00*	6,00*	883,739W	1,705,909W
24.	Student Services - UOH, Manoa Operating	UOH 105	UOH	156.75*	156.75*	4,004,615A	7,905,634A	
				.25*	.25*	.25*	201,513B	379,116B
				177,603B	900,000N	900,000N	1,800,000N	
25.	Institutional Support - UOH, Manoa Operating	UOH 106	UOH	115.75*	115.75*	14,651,977W	28,372,153W	
				13,720,176W	26.00*	26.00*	3,765,333X	7,419,573X
				3,654,240X	134,000C	C	134,000C	
26.	Investment: Capital University of Hawaii, Hilo Instruction - UOH, Hilo	UOH 211	UOH	370.50*	370.50*	17,839,407A	33,192,317A	
				15,352,910A	12.00*	12.00*	654,880B	1,284,224B
				629,344B	6.00*	6.00*	1,983,022W	3,802,188W



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Item No.	Program	Program ID	Exp. Agy.	APPROPRIATIONS			Total M Biennium 0 1981-83 F
				FY M 1981-82 F	FY M 1982-83 F	FY M 1982-83 F	
32. Public Service - Honolulu Community Coll	Operating	UOH 302	UOH UOH	7.00* 523,328A 214,296B	7.00* 529,571A 215,408B	7.00* 529,571A 215,408B	1,052,899A 429,704B
33. Academic Support - Honolulu Community Col	Operating	UOH 303	UOH	28.00* 385,119A	28.00* 599,998A	28.00* 599,998A	1,185,117A
34. Student Services - Honolulu Community Col	Operating	UOH 304	UOH UOH UOH	20.00* 452,442A 111,000N 4,779W	20.00* 462,227A 111,000N 5,223W	20.00* 462,227A 111,000N 5,223W	914,669A 222,000N 10,002W
35. Institutional Support - Honolulu CC	Operating	UOH 305	UOH UOH UOH AGS	36.00* 1,374,297A 32,257B 63,316W 551,000C	36.00* 1,649,227A 35,256B 69,204W C	36.00* 1,649,227A 35,256B 69,204W C	3,023,524A 67,513B 132,520W 551,000C
36. Kapiolani Community College Instruction — Kapiolani Community College	Investment: Capital	UOH 311	UOH UOH	110.00* 3,559,796A 88,562N 4.00*	110.00* 3,563,107A 88,562N 4.00*	110.00* 3,563,107A 88,562N 4.00*	7,122,903A 177,124N 331,466W

37.	Public Service - Kapiolani Community College	UOH 312	Operating	1.00*	52,255A	53,435A	105,690A
					1.00*	1.00*	
					197,796B	202,225B	400,021B
38.	Academic Support - Kapiolani Community Col	UOH 313	Operating	16.00*	510,457A	520,358A	1,030,815A
39.	Student Services - Kapiolani Community Col	UOH 314	Operating	17.00*	414,323A	430,450A	844,773A
					150,000N	150,000N	300,000N
					7,521W	7,953W	15,474W
40.	Institutional Support - Kapiolani CC	UOH 315	Operating	29.00*	955,414A	1,342,824A	2,298,238A
					5,389B	6,111B	11,500B
					65,843W	71,271W	137,114W
					2,051,000C	C	2,051,000C
41.	Leeward Community College Instruction - Leeward Community College	UOH 321	Investment: Capital	29.00*	147.00*	148.00*	148.00*
					3,923,870A	3,932,782A	7,856,652A
					54,561N	54,561N	109,122N
					2.00*	2.00*	
					147,518W	157,851W	305,369W
					135,000C	C	135,000C

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Item No.	Program	Program ID	Exp. Agy.	APPROPRIATIONS			Total M Biennium 1981-83 F
				FY M 1981-82 F	FY M 1982-83 F	FY M 1982-83 F	
42.	Public Service - Leeward Community College	UOH 322		5.00*	5.00*	5.00*	248,964A
				UOH	123,529A 1.00*	125,435A 1.00*	
43.	Academic Support - Leeward Community Coll	UOH 323		25.00*	25.00*	25.00*	495,551B
				UOH	678,272A	695,248A	
44.	Student Services - Leeward Community Coll	UOH 324		32.00*	32.00*	32.00*	1,373,520A
				UOH	703,361A 30,038B 125,000N 8,607W	708,803A 31,974B 125,000N 9,202W	
45.	Institutional Support - Leeward CC	UOH 325		48.50*	48.50*	48.50*	1,748,693A C
				UOH AGS	1,638,939A 124,000C	1,748,693A C	
46.	Windward Community College Instruction—Windward Community College	UOH 331		46.50*	46.50*	46.50*	3,387,632A 124,000C
				UOH UOH	1,98,477A 3,584W	1,213,376A 3,917W	
	Operating						2,411,853A 7,501W

47.	Public Service - Windward Community College	UOH 332					
	Operating	UOH UOH	2.00*	2.00*	66,091A 85,884B	127,365A 169,286B	
48.	Academic Support - Windward Community Coll	UOH 333					
	Operating	UOH	11.00*	11.00*	364,096A	698,770A	
49.	Student Services - Windward Community Coll	UOH 334					
	Operating	UOH UOH UOH	9.00*	9.00*	219,820A 55,480N 2,748W	435,725A 110,960N 5,751W	
50.	Institutional Support - Windward CC	UOH 335					
	Operating	UOH UOH	15.00*	15.00*	451,767A 1.00* 44,539W	849,211A 1.00* 47,329W	
51.	Maui Community College Instruction - Maui Community College	UOH 501					
	Operating	UOH UOH	62.50*	62.50*	1,688,295A 26,090N	3,364,130A 26,090N	
		UOH	2.00*	2.00*	145,290W	52,180N	
					156,393W		
52.	Public Service - Maui Community College	UOH 502					
	Operating	UOH UOH	2.50*	2.50*	97,185A 17,997B	195,529A 18,330B	
					98,344A 18,330B	36,327B	
					301,683W		

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Item No.	Program	Program ID	Exp. Agy.	APPROPRIATIONS			Total M Biennium 1981-83
				FY 1981-82 M F	FY 1982-83 M F	FY 1982-83 M F	
53.	Academic Support - Maui Community College	UOH 503		11.50*	14.00*	346,994A	664,416A
54.	Student Services - Maui Community College	UOH 504	UOH	317,417A			
	Operating			9.50*	9.50*		
			UOH	261,968A	265,283A		527,251A
				2.00*	2.00*		
			UOH	79,555B	120,326B		199,881B
			UOH	118,000N	118,000N		236,000N
			UOH	3,584W	3,917W		7,501W
55.	Institutional Support—Maui Community Col	UOH 505		19.00*	19.00*	894,815A	1,647,973A
	Operating		UOH	753,158A		3,917B	7,501B
			UOH	3,584B		C	68,000C
	Investment: Capital			68,000C			
56.	Kauai Community College Instruction - Kauai Community College	UOH 601		47.00*	47.00*	1,198,798A	2,395,958A
	Operating		UOH	1,197,160A		1,735N	3,470N
			UOH			8,364W	17,506W
57.	Public Service - Kauai Community College	UOH 602		.50*	.50*	15,735A	31,222A
	Operating		UOH	15,487A		18,182B	36,031B

58.	Academic Support - Kauai Community College	UOH 603	UOH	10.50*	10.50*	
	Operating			313,103A	324,279A	637,382A
59.	Student Services - Kauai Community College	UOH 604	UOH	8.00*	9.00*	
	Operating			203,558A 36,000N 2,389W	211,212A 36,000N 2,611W	414,770A 72,000N 5,000W
60.	Institutional Support - Kauai CC	UOH 605	UOH	25.50*	25.50*	
	Operating			1,241,326A 17,920B	1,299,215A 19,586B	2,540,541A 37,506B
61.	West Oahu College Instruction - West Oahu College	UOH 701	UOH	9.00*	9.00*	
	Operating			255,753A	265,986A	521,739A
62.	Academic Support - West Oahu College	UOH 704	UOH	3.50*	3.50*	
	Operating			123,520A	126,238A	249,758A
63.	Student Services—West Oahu College	UOH 705	UOH	2.00*	2.00*	
	Operating			72,115A	73,880A	145,995A
64.	Institutional Support - West Oahu College	UOH 706	UOH	4.00*	5.00*	
	Operating			257,074A	283,375A	540,449A

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Item No.	Program	Program ID	Exp. Acy.	APPROPRIATIONS			Total M Biennium 1981-83	M O 1981-83
				FY 1981-82	FY O 1982-83	FY F 1982-83		
65.	Higher Education State-wide Support Academic Support - UOH, System-wide Support	UOH 901		31.00*	40.00*	2,812,378A 1,220,351B	4,984,866A 1,953,834B	
	Operating		UOH UOH	2,172,488A 733,483B				
66.	Student Services - UOH, System-wide Support	UOH 902		4.00*	4.00*	580,786A	1,119,364A	
	Operating		UOH	538,578A				
67.	Institutional Sppt-UOH, System-Wide Sppt	UOH 903		188.75*	189.75*	5,079,076A C	9,946,371A 3,200,000C	
	Operating Investment: Capital		UOH AGS	4,867,295A 3,200,000C				
68.	Vocational Education, Statewide Coordinator	UOH 904		7.00*	7.00*	160,986A 6.00*	162,042A 6.00*	
	Operating		UOH	436,312N			451,166N	
69.	Statewide Plan & Coord for Post- Secondary Operating	UOH 905		1,239,800A	1,315,400A		322,928A	2,555,200A
70.	Community College Systemwide Support Operating	UOH 906		991,617A	1,073,149A	25.00*	25.00*	2,064,766A

**H. CULTURE AND RECREATION**

1.	CULTURAL ACTIVITIES	LNR 801						
	Historical and Archaeological Places							
2.	Operating Investment: Capital	UOH 881	LNR LNR	18.00* 642,836A 550,000C	18.00* 674,488A C	1,317,344A 550,000C		
2.	Aquaria	UOH	UOH	11.00* 347,577A	11.00* 254,146A	601,723A		
3.	Hawaii Public Broadcasting	REG 701	REG	36.00* 1,204,029A 1.00*	36.00* 1,205,952A 1.00*	2,409,981A		
	Operating		REG	972,993W	1,044,338W	2,017,331W		
4.	Performing & Visual Arts Events	AGS 881	AGS	10.00* 710,051A 585,000N 90,000R	10.00* 703,279A 585,000N 90,000R	1,413,330A 1,170,000N 180,000R		
	Operating		AGS					
5.	Ethnic Group Presentations	AGS 818	AGS	41,316A 10,942B	44,117A 7,500B	85,433A 18,442B		
	Operating		AGS					
6.	RECREATIONAL ACTIVITIES	LNR 804	LNR LNR	28.00* 522,781A 200,000N	28.00* 482,681A 200,000N	1,005,462A 400,000N		
	Forest Recreation		LNR					
	Operating		LNR					

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Item No.	Program	Program ID	Exp. Apt.	APPROPRIATIONS			Total M Biennium 1981-83	Total M Biennium 1981-83
				FY 1981-82 F	FY 1981-82 O	FY 1982-83 F		
7.	Aquatic Recreation Operating	LNR 805		16.00*	16.00*		616,701A 369,205N	
				LNR LNR	306,855A 186,519N	309,846A 182,686N		
8.	Parks Recreation Operating Investment: Capital	LNR 806		104.00*	104.00*		4,581,245A 1,520,000C	
				LNR LNR	2,283,882A 1,520,000C	2,297,363A C		
9.	Ocean-based Recreation Operating Investment: Capital	TRN 801		46.50*	46.50*		5,664,969B 1,397,000D 463,000N	
				TRN TRN TRN	2,728,991B 1,397,000D 463,000N	2,935,978B D N		
10.	Spectator Events & Shows - Aloha Stadium Operating	AGS 889		584,831A 34.00*	651,701A 34.00*		1,236,532A	
				AGS AGS AGS	1,062,397B 1,300,000C	1,033,404B C		
11.	GENERAL ADMIN FOR CULTURE & RECREATION	LNR 809		23.50*	23.50*		896,846A 6,137,034N 40,000A 40,000N	
				LNR LNR LNR LNR	448,839A 3,068,995N 40,000A 40,000N	3,068,039N A N		

**I. PUBLIC SAFETY**

<b>SAFETY FROM CRIMINAL ACTIONS</b>		SOC 394	51.00*	51.00*	
1.	Intake Service Centers	SOC SOC	997,525A 168,341N	1,004,169A 6,570N	2,001,694A 174,911N
	Operating				
	Confinement				
2.	Juvenile Correctional Facilities	SOC 401	89.00*	89.00*	
	Operating	SOC AGS	2,181,506A 1,345,000C	2,280,787A C	4,462,293A 1,345,000C
	Investment: Capital				
3.	High Security Facility	SOC 402	152.00*	152.00*	
	Operating	SOC SOC	2,814,938A 153,764B	3,104,892A 181,065B	5,919,830A 334,829B
4.	Kulani Correctional Facility	SOC 403	51.83*	51.83*	
	Operating	SOC AGS	1,272,079A 323,000C	1,454,994A C	2,727,073A 323,000C
	Investment: Capital				
5.	In-Community Facilities	SOC 404	15.00*	15.00*	
	Operating	SOC	471,577A	467,880A	939,457A
6.	Hawaii Community Correctional Center	SOC 405	33.00*	33.00*	
	Operating	SOC	650,185A	673,022A	1,323,207A
7.	Maui Community Correctional Center	SOC 406	29.00*	29.00*	
	Operating	SOC	617,409A	639,484A	1,256,893A

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Item No.	Program	Program ID	Exp. Agy.	APPROPRIATIONS			Total M Biennium O 1981-83 F
				FY 1981-82 F	M FY 1982-83 F	M FY 1982-83 F	
8.	Oahu Community Correctional Center Operating Investment: Capital	SOC 407	SOC AGS	391.80* 8,478,149A 1,150,000C	391.80* 9,178,014A C	391.80* 17,656,163A 1,150,000C	
9.	Kauai Community Correctional Center Operating	SOC 408	SOC	27.00* 598,011A	27.00* 649,092A	27.00* 1,247,103A	
10.	Social Rehabilitation of Confined Adults Operating	UOH 859	UOH UOH UOH	6.00* 170,224A 34,027N 2,389W	6.00* 174,287A 34,027N 2,611W	6.00* 344,511A 68,054N 5,000W	
	Parole Supervision and Counseling						
11.	Adult Parole Determinations Operating	SOC 411	SOC	2.00* 64,752A	2.00* 64,858A	2.00* 129,610A	
12.	Adult Parole Supervision and Counseling Operating	SOC 413	SOC	19.00* 330,876A	19.00* 333,511A	19.00* 664,387A	
13.	Criminal Injuries Compensation Operating General Support - Criminal Action	SOC 414	SOC	3.00* 77,418A	3.00* 79,116A	3.00* 156,534A	
14.	Criminal Data and Crime Statistics Operating	ATG 191	ATG	11.00* 193,521A	11.00* 203,800A	11.00* 397,321A	

15.	Criminal Justice Planning & Prg Implemen	ATG 193		2.45*	2.45*	285,019A
	Operating		ATG	148,691A 4.55*	136,328A 4.55*	
16.	General Adm - Confinement	SOC 493	ATG	941,766N	745,623N	1,687,389N
	Operating		SOC	21.00*	21.00*	738,266A
	Investment: Capital	AGS	AGS	341,332A 7,329,000C	396,934A C	7,329,000C
17.	Statistical Analysis Center	ATG 231		13.00*	13.00*	
	Operating		ATG	493,279A	502,913A	996,192A
18.	SAFETY FROM PHYSICAL DISASTERS	LNR 810		3.00*	3.00*	
	Prevention of Natural Disasters		LNR	97,498A	105,197A	202,695A
	Operating					
19.	Amelioration of Physical Disasters	DEF 110		130.00*	130.00*	
	Operating		DEF	5,419,329A 3.00*	5,688,737A 3.00*	11,108,066A
	Investment: Capital		DEF	890,652N 1,118,000C	830,823N 934,000N	1,681,477N 1,118,000C
			AGS		C	N
			AGS			934,000N

**J. INDIVIDUAL RIGHTS**

1.	PROTECTION OF THE CONSUMER	AGR 810		26.75*	26.75*	
	Testing & Certification of Consumer Good		AGR	530,461A 26.75*	540,103A 26.75*	1,070,564A
	Operating		AGR	609,333N	612,262N	1,221,595N
	Regulation of Services					

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Item No.	Program	Program ID	Exp. Agr.	APPROPRIATIONS			Total Biennium 1981-83 M
				FY 1981-82 M	FY 1982-83 M	FY 1982-83 F	
2.	Consumer Advocate for Comm., Util & Trans	REG 103			35.00*		35.00*
			REG	874,894A	991,823A		1,866,717A
3.	Banking Services	REG 104		4.00*	4.00*		4.00*
			REG	190,997X	197,285X		388,282X
4.	Insurance Services	REG 106		26.00*	26.00*		26.00*
			REG	617,618A	615,176A		1,232,794A
5.	Professional, Vocational & Personal Svcs	REG 105		28.00*	28.00*		28.00*
			REG	595,401A	605,013A		1,200,414A
6.	Transportation, Communications, & Utilit	BUF 901		35.00*	35.00*		35.00*
			BUF	1,050,765A	1,064,768A		2,115,533A
7.	Enforcement of Fair Business Practices	REG 111		19.00*	19.00*		19.00*
			REG	638,444A	655,124A		1,293,568A
8.	Business Registration	AGR 812		23.00*	23.00*		23.00*
			AGR	352,702A	352,671A		705,373A
	Operating						
	Measurement Standards			20.00*	20.00*		20.00*
			AGR	432,296A	434,331A		866,627A
	Operating						

9.	Offc of Consumer Prot - Adv & Terms of S	REG 110		28.00*	28.00*	
	Operating	REG	568,584A	573,291A	1,141,875A	
10.	General Support - Protection of the Consum	REG 191		45.00*	45.00*	
	Operating	REG	1,006,102A	1,025,635A	2,031,737A	
<b>LEGAL &amp; JUDICIAL PROTECTION OF RIGHTS</b>						
11.	Legal Assistance in Criminal Actions	BUF 151		63.00*	63.00*	
	Operating	BUF	1,769,655A	1,783,096A	3,552,751A	
12.	Conveyances and Recordings	LNR 111		44.00*	44.00*	
	Operating	LNR	777,852A	781,652A	1,559,504A	
13.	Commission on the Status of Women	SOC 888		2.00*	2.00*	
	Operating	SOC	38,659A	32,937A	71,596A	
<b>K. GOVERNMENT-WIDE SUPPORT EXEC DIRECTN, COORD, &amp; POLICY DEVELOPMEN</b>						
1.	Office of the Governor	GOV 100		43.00*	43.00*	
	Operating Investment: Capital	GOV	1,549,293A 3,000,000C	1,664,257A C	3,213,545A 3,000,000C	
2.	Office of the Lieutenant Governor	LTG 100		24.00*	24.00*	
	Operating Policy Development and Coordination	LTG	1,374,685A	2,607,479A	3,982,164A	

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Item No.	Program No.	Program	Program ID	Exp. Agy.	APPROPRIATIONS			Total M Biennium 1981-83 F
					FY 1981-82 F	M FY 1981-82 F	M FY 1982-83 F	
3.	BUF - Prgm Planning, Analysis & Budgeting		BUF 101		69.00*	69.00*	69.00*	17,030,738A 1,458,777B 769,828N 1,318R 62,429W 15,951X
					BUF	5,597,267A	11,433,471A	
					BUF	263,093B	1,195,684B	
					BUF	157,427N	612,401N	
					BUF	432R	886R	
					BUF	11,471W	50,958W	
					BUF	2,944X	13,007X	
4.	Statewide Plan and Coordination		PED 103		54.00*	54.00*	54.00*	3,165,734A 1,500,529A 1,188,495N 2,377,974N
					PED	1,665,205A	1,500,529A	
					PED	1,189,479N	1,188,495N	
5.	Gov - Oth Policy Development & Coordinat		GOV 102		12.00*	12.00*	12.00*	1,550,142A
					GOV	796,697A	753,445A	
<b>FISCAL MANAGEMENT</b>								
6.	Revenue Collection		TAX 102		168.00*	168.00*	168.00*	3,122,598A
					TAX	3,150,158A	3,122,598A	
7.	Income Assessment and Audit		TAX 103		82.00*	82.00*	82.00*	6,272,756A
					TAX	1,386,719A	1,356,036A	
8.	Tax Collection		TAX 107		73.00*	73.00*	73.00*	2,742,755A
					TAX	3,076,905A	2,738,582A	
<b>Supporting Services - Revenue Collection</b>								
9.	Operating		TAX 107		73.00*	73.00*	73.00*	5,815,487A
					TAX	3,076,905A	2,738,582A	
<b>Fiscal Procedures and Control</b>								
10.	Fiscal Procedures and Control		TAX 107		73.00*	73.00*	73.00*	5,815,487A
					TAX	3,076,905A	2,738,582A	

9.	Acct System Development & Maintenance	AGS 101		9.00*	9.00*	
	Operating	AGS		221,733A	222,218A	443,951A
10.	Expenditure Examination	AGS 102		23.00*	23.00*	
	Operating	AGS		564,668A	583,966A	1,148,634A
11.	Recording and Reporting	AGS 103		15.00*	15.00*	
	Operating	AGS		370,809A	383,324A	754,133A
12.	Internal Post Audit	AGS 104		19.00*	19.00*	
	Operating	AGS		778,178A	792,728A	1,570,906A
13.	Cash and Debt Management	BUF 110		16.00*	16.00*	
	Operating	BUF		178,333,894A	197,967,462A	376,301,356A
		BUF		305,756B	162,308B	468,064B
		BUF		5,000U	5,000U	10,000U
14.	GENERAL SERVICES	ATG 100		96.30*	96.30*	
	Legal Services	ATG		3,974,900A	4,103,258A	8,078,158A
	Operating	ATG		11.70*	11.70*	
		ATG		397,369N	427,149N	824,538N
		ATG		30.00*	30.00*	
		ATG		767,662U	813,859U	1,581,521U
15.	Electronic Data Processing Services	BUF 131		203.00*	203.00*	
	Operating	BUF		5,718,477A	5,765,026A	11,483,503A
		BUF		25.00*	25.00*	
		BUF		1,699,739U	1,783,432U	3,483,171U

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Item No.	Program	Program ID	Exp. Agy.	APPROPRIATIONS			Total M Biennium 1981-83 F
				FY M 1981-82 F	FY M 1982-83 F	FY M 1982-83 F	
16.	Records Management	AGS 111	AGS	24.00*	24.00*	358,758A	759,853A
	Operating Personnel Services			401,095A			
17.	Work Force Attr, Select, Class, & Effect	PER 102	PER	77.00*	77.00*	1,754,552A	3,510,526A
	Operating			1,755,974A			
18.	Supporting Services - Personnel Services	PER 191	PER	12.00*	12.00*	460,277A	903,361A
	Operating Employee Fringe Benefit Administration			443,084A			
19.	Retirement	BUF 141	BUF	23.94*	23.94*	118,227,351A	209,326,781A
	Operating			8.06*	8.06*	274,682S	547,600S
20.	Group Life Insurance, Med, Hosp & Dntl Bn	BUF 142	BUF BUF	11.00*	11.00*	20,000,000A 11,197,920S	42,000,000A 13,437,504S
	Property Management						
21.	Public Lands Management	LNR 101	LNR LNR	35.00*	35.00*	695,412A 400,000C	693,241A C 1,388,653A 400,000C
	Operating Investment: Capital						

22.	Insurance Management Operating	AGS 203	AGS AGS	4,908,376A 626,226U	5,280,716A 690,404U	10,189,092A 1,316,630U
23.	Land Survey Operating	AGS 211		28.00* 607,750A	28.00* 606,319A	1,214,069A
24.	Facilities Construction and Maintenance Construction Operating Investment: Capital	AGS 221		20.00* 452,851A 2,805,000C 3,546,000D	20.00* 453,746A C D	906,597A 2,805,000C 3,546,000D
25.	Custodial Services Operating	AGS 231	AGS AGS	140.50* 6,577,310A 250,700U	150.50* 7,702,722A 270,756U	14,280,032A 521,456U
26.	Grounds Maintenance Operating	AGS 232		39.50* 552,378A	39.50* 594,209A	1,146,587A
27.	Building Repairs and Alterations Purchasing and Supplies	AGS 233	AGS	24.00* 1,809,574A	24.00* 1,798,804A	3,608,378A
28.	Central Purchasing Operating	AGS 240	AGS AGS	15.00* 255,200A 18,000W	15.00* 254,749A 19,000W	509,949A 37,000W
29.	Surplus Property Management Operating	AGS 244		5.00* 133,538W	5.00* 174,641W	308,179W

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Item No.	Program No.	Program ID	APPROPRIATIONS			Total M Biennium 1981-83 F
			Exp. Ag.	FY 1981-82 F	M FY 1982-83 F	
30.	Motor Pool Operating	AGS 251		8.50*	8.50*	951,225W
31.	Parking Control Operating	AGS 252		457,008W	494,217W	
32.	Communication Operating	AGS 263		579,032W	12.50*	1,140,187W
33.	Capitol Building Security Operating	ATG 801		652,426U	16.00*	3,141,355A 1,333,246U
34.	Other State Buildings Security Operating	AGS 301		571,267A	36.00*	1,144,645A
35.	Genrl Adm Svcs - Accounting & General Sv Operating Subsidies to Counties	AGS 901		119,987A	10.00*	240,382A
36.	Grants In Aid to Counties Operating	SUB 101		813,496A	39.00*	1,627,777A
					814,281A	
					19,447,551A	38,895,102A

### PART III. PROGRAM APPROPRIATION PROVISIONS

#### ECONOMIC DEVELOPMENT

SECTION 4. Provided, that of the general fund appropriation to the Commerce and Industry Program (PED 102), \$130,000 for each year of the fiscal biennium 1981-1983 shall be used to promote the development of high technology industries in Hawaii.

SECTION 5. Provided, that of the sums appropriated for the Tourism program (PED 113), the general fund used for a contract with the Hawaii Visitors Bureau for the purpose of tourism promotion shall not exceed \$3,373,000 for fiscal year 1981-82 and \$2,361,000 for fiscal year 1982-83.

SECTION 5A. Provided that of the totals for contracts with the Hawaii Visitors Bureau in the Tourism program (PED 113), \$1,000,000 for the fiscal year 1981-82 shall be expended to continue services under State of Hawaii/Hawaii Visitors Bureau Contract #11732 for the purpose of implementing a one-year high-saturation tourism advertising campaign; provided further, that \$250,000 for both years of the 1981-83 fiscal biennium shall be expended by the Department of Planning and Economic Development, Office of Tourism, for promotion and advertising of Hawaii in Japan; provided further, that these funds shall be exempt from the matching fund requirement by private industry.

SECTION 6. Provided, that of the sums appropriated for the Tourism Program (PED 113), \$75,000 in each year of the fiscal biennium 1981-1983 shall be used for the Aloha Week Festival to be administered by the Hawaii Visitors Bureau.

SECTION 7. Provided, that of the general fund appropriation for the fiscal year 1981-82 for the Tourism Office (PED 113), \$176,500 shall be for the Royal Hawaiian Band and \$10,000 shall be for the Hawaii Air National Guard color guards to defray expenses on a concert tour to promote Hawaii to the people of Europe, a potential new visitor market.

SECTION 8. Provided, that in the Animal Quarantine Program (AGR 131), the department of agriculture shall adjust the fees for the quarantine of cats and dogs so that revenues collected from this source will equal 100 per cent of all costs, excluding amortization of capital improvement costs of the quarantine on cats and dogs program.

SECTION 9. Provided, that of the general fund appropriations for Animal Disease Control (AGR 132), \$41,214 in each year of the 1981-83 biennium shall be used to contract those services required to implement the Swine Program.

SECTION 10. Provided, that with the funds appropriated and positions authorized to the Distribution Systems Improvement for Agriculture Program (AGR 151) for the 1981-83 biennium the department of agriculture shall continue its market development programs.

SECTION 11. Provided, that in the Data Collection for Agriculture Program (AGR 189), any private industry contributions for the papaya and anthurium fore-

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casting projects shall be used to offset the cost of these projects and the general fund appropriation shall be reduced to the extent of the private contributions.

**SECTION 12.** Provided, that of the monies authorized to be expended from the revolving fund of the Financial Assistance for Aquaculture Program (AGR 102), up to \$50,000 may be used in each year of the 1981-83 biennium to grant loans for the purchase of post-larvae stage prawns.

**SECTION 13.** Provided, that for the Water Development and Irrigation Services Program (LNR 141), the general fund appropriation shall be reduced to the extent that special fund revenues exceed the amounts authorized by this Act.

**SECTION 14.** Provided, that of the general fund appropriation for the General Support for Economic Development (PED 142), \$37,500 for each fiscal year of the fiscal biennium 1981-83 is for a second deputy director.

### **EMPLOYMENT**

**SECTION 15.** Provided, that of the general fund appropriation for Disability Compensation (LBR 183), \$30,000 in fiscal year 1981-82 shall be for the Worker Compensation Program Commission.

**SECTION 16.** Provided, that of the general fund appropriation for Vocational Rehabilitation (SOC 802), \$768 in fiscal year 1981-82 and \$768 in fiscal year 1982-83 shall be for two telecommunication devices for the deaf to be connected to the Oahu and Maui State switchboard, and provided further, that of the general fund appropriation for Vocational Rehabilitation (SOC 802), \$4,400 in fiscal year 1981-82 and \$4,400 in fiscal year 1982-83 shall be for relay services on the islands of Oahu and Maui.

**SECTION 17.** Provided, that of the general fund appropriation for DLIR-Data Gathering, Research and Analysis (LBR 901), \$252,681 in fiscal year 1981-82 and \$310,032 in fiscal year 1982-83 shall be allotted for the career information system known as Career Kokua; provided further, that the department of labor and industrial relations shall submit a progress report on the implementation of this project 20 days prior to the convening of the 1982 Regular Session of the Legislature, including the development of measures of effectiveness.

**SECTION 18.** Provided, that of the general fund appropriation for DLIR-Data Gathering, Research and Analysis (LBR 901), \$128,428 in fiscal year 1981-82 shall be used for the Career Resource Center.

### **TRANSPORTATION FACILITIES**

**SECTION 19.** Provided, that of the appropriation for Water Transportation Facilities and Services Support (TRN 395), \$200,000 in each fiscal year shall be used for the payment of tort claims involving the Harbors Division, which are arbitrated, compromised, or settled for amounts not in excess of the deductible of the appropriate insurance policy of the Harbors Division, and for litigation purposes not provided for by the several insurance policies of the Harbors Division.

**SECTION 20.** Provided, that of the special fund appropriation to Air Transportation Facilities and Services Support, (TRN 195), \$50,000 in fiscal year 1981-82

or so much thereof as may be necessary shall be used to contract with the office of the legislative auditor to study and prepare a report on the issues and concerns expressed in S.C.R. 46 of the 1981 legislative session relating to the sale and delivery of duty-free merchandise at the Honolulu International Airport. The contract shall include but not be limited to provisions which: (1) permit the office of the legislative auditor to subcontract with private entities for all or portions of the study, and (2) require that the auditor's findings and recommendations shall be submitted to the legislature 20 days prior to the convening of the 1982 legislative session.

**SECTION 21.** Provided, that the department of transportation shall make every effort to initiate energy cost savings through a coordinated program of electricity conservation.

**SECTION 22.** Provided, that of the special fund appropriation to Overall Support for Transportation and Services (TRN 995), \$120,000 for fiscal year 1981-82 shall be for the Oahu Metropolitan Planning Organization (OMPO); and provided further that of the \$120,000 appropriation, \$100,000 shall be used for updating the Oahu Transportation Study and \$20,000 shall be used as state matching for federal funds.

## **ENVIRONMENTAL PROTECTION**

**SECTION 23.** Provided, that of the general fund appropriation to the Solids, Liquids, Gases, and Noise Program (HTH 840), \$15,000 for each year of the fiscal biennium 1981-83 shall be used to provide for contractual hire of an environmental health specialist to implement the State's hazardous waste management program as required by the National Resource Conservation and Recovery Act of 1976.

## **HEALTH**

**SECTION 24.** Provided, that if special fund receipts exceed the authorization, the general fund appropriation shall be reduced to the extent of the excess, except as provided elsewhere in this Act.

**SECTION 25.** Provided, that of the general fund appropriation for Emergency Medical Services (HTH 170), \$70,000 in fiscal year 1981-82 shall be used for hiring temporary Emergency Medical Technician positions for one or more County/State hospitals on the island of Hawaii to be designated by the Department of Health EMS Advisory Committee.

**SECTION 26.** Provided, that of the general fund appropriation for Emergency Medical Services (HTH 170), no more than \$907,000 in fiscal year 1981-82 shall be used to reimburse the City and County of Honolulu for any 1980-81 deficit for the operations of the Emergency Medical Services.

**SECTION 27.** Provided, that a computerized patient accounting system at any county/state hospital shall not be implemented until a full evaluation of the system instituted at Maui Memorial Hospital is completed; and provided further, that this evaluation shall be submitted to the Legislature upon completion.

**SECTION 28.** Provided, that of the general fund appropriation to Sanitation and Substance Control (HTH 611), \$16,000 in each year of the fiscal biennium 1981-1983 shall be for contractual hire of an environmental health specialist to provide

## **ACT 1**

radiological monitoring and investigation related to the Advisory Committee on Radiological Safety.

**SECTION 29.** Provided, that of the general fund appropriation to Sanitation and Substance Control (HTH 611), \$6,000 in fiscal year 1981-82 shall be used to contract services for on-site monitoring for radioactive materials in Pearl Harbor.

**SECTION 30.** Provided, that of the general fund appropriation for Health Education (HTH 908), \$5,040 in each year of the fiscal biennium 1981-1983 shall be used to hire student help for the Hawaii District Office to assist the Public Health Educator.

## **SOCIAL SERVICES**

**SECTION 31.** Provided, that of the sums appropriated to Services to Individuals and Families (SOC 111), \$300,000 for each year of the fiscal biennium 1981-1983 shall be for the Special Care for Foster Children Program.

**SECTION 32.** Provided, that of the general fund appropriation to Services to Individuals and Families (SOC 111), \$77,000 for each year of the fiscal biennium 1981-1983 shall be for expanding the Senior Companion Program to the counties of Hawaii, Kauai, and Maui.

**SECTION 33.** Provided, that of the general fund appropriation for Payments to Assist in Child Welfare Foster Care (SOC 203), \$8,000 in each year of the fiscal biennium 1981-1983 shall be provided for general casualty insurance for foster parents.

**SECTION 34.** Provided, that in establishing fees for individual practitioners for Health Care Payments (SOC 230) for fiscal biennium 1981-83, the department of social services and housing shall use the 1979 profiles of usual and customary fees of health care practitioners adjusted to the 79.5% of the 75th percentile within the limits of this appropriation.

**SECTION 35.** Provided, that of the general fund appropriation to the Progressive Neighborhoods Program (GOV 859), \$176,580 in fiscal year 1981-82 shall be used for Basic Grants Projects; provided further, that the Progressive Neighborhoods Task Force shall develop a plan for systematic review and selection of Basic Grants Projects and shall submit that plan to the legislature twenty days prior to the start of the 1982 Regular Session.

**SECTION 36.** Provided, that of the general fund appropriation to the Hawaii Office for Economic Opportunity (GOV 860), \$907,300 in fiscal year 1981-82 shall be the Legal Aid Society of Hawaii; provided further, that the Legal Aid Society of Hawaii shall submit reports to the Legislature twenty days prior to the convening of each regular legislative session. These reports shall include statements of income, expenditures and accomplishments for the previous fiscal year.

**SECTION 37.** Provided, that of the general fund appropriation to the Hawaii Office of Economic Opportunity (GOV 860), \$1,587,715 in fiscal year 1981-82 shall be used for "other grants in aid"; provided further, that the Hawaii Office of Economic Opportunity shall develop a plan for systematic review and selection of

"other grants in aid" and shall submit that plan to the legislature twenty days prior to the start of the 1982 Regular Session.

SECTION 38. Provided, that of the general fund appropriation to the Executive Office on Aging (GOV 602), \$1,150,830 in fiscal year 1981-82 shall be used for grants to agencies providing services to the elderly; and provided further, that the Director of the Executive Office on Aging shall submit, 20 days prior to the convening of the 1982 Regular Session of the Legislature, a plan for systematic review and selection of all requests for such grants.

SECTION 39. Provided, that of the general fund appropriation to the Planning, Program Development, and Coordination of Services for Elderly Program (GOV 602), the sum of \$40,261 shall be for a grant-in-aid to the Kauai Senior Center, Inc. for fiscal year 1981-82; provided further, that this grant-in-aid shall be channeled through the Kauai Area Agency on Aging by the Executive Office on Aging.

## LOWER EDUCATION

SECTION 40. Provided, that the amounts shown to the Regular Instruction Program (EDN 105) are intended for student enrollment projections of 161,726 for fiscal year 1981-82 and 160,188 for fiscal year 1982-83.

SECTION 41. Provided, that of the general fund appropriation to the Regular Instruction Program (EDN 105) for the category "Operating," the sum of \$764,850 and 50 position for fiscal 1981-82 and the sum of \$764,850 and 50 positions for fiscal year 1982-83 shall be used for a Superintendent's reserve to be allocated, as necessary, by the superintendent of education to supplement the amounts shown and to meet contingency needs for personnel for Regular Instruction for the category "Operating."

SECTION 42. There is hereby appropriated out of the general fund \$5,800,000 or so much thereof as may be necessary, to Regular Instruction (EDN 105), for asbestos removal in the public schools. Any unexpended or unencumbered balance of this appropriation as of the close of business on June 30, 1982 shall lapse. This section shall take effect upon the approval of this Act.

SECTION 43. Provided, that of the general fund appropriation to the Regular Instruction Program (EDN 105), \$1,033,630 in fiscal year 1981-1982 and \$1,027,940 in fiscal year 1982-1983 shall be allotted for supplies, equipment, and services to augment regular instruction and other purposes which, at the schools' discretion, will benefit students and improve the instruction program of the schools; provided further, that each principal shall consult with teachers and, to the extent practicable, with parents and students, to solicit their advice on the purposes for which expenditures are to be made; provides further, that the amounts to be allotted to each school in fiscal year 1981-1982 and in fiscal year 1982-1983 are based on a formula which provides each school with a basic allocation of \$1,000 plus an additional \$5.00 per regular and special education student in regular schools, in each fiscal year; provides further, that by such dates as designated by the superintendent of education and under such guidelines as the superintendent may issue, principals shall submit plans for the expenditure of special needs funds to their district superin-

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tendents; provided further, that a district superintendent may advise a principal to amend an expenditure plan if the need for a proposed expenditure can be met through the transfer of idle or underutilized supplies, equipment, or other resources from another school or source, and the superintendent is able to make such transfer; provided further, that all school expenditures shall be made through normal departmental procurement and disbursing procedures; provided further, that there shall be kept for each school a record of the expenditures made, and the superintendent of education or the district superintendents may request the evaluation of specific expenditures; provided further, that the superintendent of education shall monitor expenditures to determine conformance to the superintendent's guidelines and shall provide the Legislature with such accountability reports as may be requested; provided further, that anything in the law or in any provision of this Act to the contrary notwithstanding, the superintendent of education may transfer such funds in an equitable manner among schools for Regular Instruction in the event of significant changes in individual school enrollments resulting from such conditions as delayed school openings, changes in school boundaries, disasters, or other emergencies and shall report to the Legislature on the amounts transferred and the reasons therefor.

**SECTION 44.** Provided, that of the general fund appropriation to Other Regular Instruction Programs (EDN 106), \$93,446 in fiscal year 1981-1982 shall be allotted for seven district level coordinators for the Hawaiian Studies Program; provided further, that the Department of Education shall evaluate and report on the expansion of the Hawaiian Studies Program 20 days prior to the convening of the 1982 Legislature.

**SECTION 45.** Provided, that of the general fund appropriation to the Other Regular Instruction Programs (EDN 106), \$144,729 for each year of the fiscal biennium 1981-1983 shall be for the program for Asian/European/Pacific Languages; provided further, that the department of education shall submit a report on the introduction, continuation and/or expansion of the foreign language program to the Legislature at least twenty days prior to the convening of the 1982 regular session.

**SECTION 46.** Provided, that of the general fund appropriation for Other Regular Instruction Programs (EDN 106), \$97,200 in fiscal year 1981-1982 shall be allotted to the Holomua Project; provided further, that the department of education shall report 20 days prior to the 1982 Legislature on the status of the Holomua Project within the department of education's framework, and provide details on how the Holomua concepts will be integrated into regular school programming.

**SECTION 47.** Provided, that of the general fund appropriation to the Other Regular Instruction Programs (EDN 106), \$5,460 and one position for each year of the fiscal biennium 1981-1983 shall be for the conversion of a half-time, temporary cook at Lahainaluna Boarding School to a full-time permanent positon.

**SECTION 48.** Provided, that from appropriation for School Administration (EDN 203) for fiscal year 1981-1982 and fiscal year 1982-1983, the superintendent of education may allot any reserve vice principal positions to those schools most critically in need of additional vice principals.

SECTION 49. Provided, that of the general fund appropriation to Student Activities (EDN 207), \$24,540 for each year of the fiscal biennium 1981-1983 shall be allotted for student travel expenses for Molokai High-Intermediate School and Lanai High and Elementary School.

SECTION 50. Provided, that of the general fund appropriation to Student Activities (EDN 207), \$446,180 for fiscal year 1981-1982 and \$535,395 for fiscal year 1982-1983 shall be allotted for 32 full-time, temporary and 6 half-time, temporary athletic director positions for high schools.

SECTION 51. Provided, that of the general funds appropriated for State Administration (EDN 303), \$5,000 in fiscal year 1981-1982 shall be allotted for the superintendent of education's protocol fund.

SECTION 52. Provided, that the department of education, State Administration (EDN 303) shall explore alternative housing quarters from within existing public education facilities. The office of instructional services shall report its findings 20 days prior to the 1982 Legislature. The report shall include a comparative cost analysis of the cost of relocation and the fiscal year 1982-1983 rental cost.

SECTION 53. Provided, that of the general fund appropriation for fiscal year 1981-1982 to State Administration (EDN 303), \$18,891 for fiscal year 1981-1982 and \$25,188 for fiscal year 1982-1983 shall be for a temporary institutional energy officer position within the office of assistant superintendent of business services.

SECTION 54. Provided, that of the general fund appropriation for Physical Plant Operations and Maintenance-AGS (AGS 807), those funds allotted for the repair and maintenance of school facilities shall be expended according to priorities established jointly by the department of education and the department of accounting and general services; provided further, that the department of accounting and general services shall submit a report 20 days prior to the convening of the 1982 Legislature listing those school facilities repair and maintenance projects completed or initiated during the 1981-1982 fiscal year, along with their associated costs; provided further, that the department of accounting and general services' report shall also contain a prioritized listing of all school facilities repair and maintenance projects requested by the department of education, along with their associated costs, and an indication as to which of these requests are funded under the fiscal year 1982-83 Executive Budget Supplemental.

## HIGHER EDUCATION

SECTION 55. Provided, that of the general fund appropriation to Instruction-University of Hawaii, Manoa Program (UOH 101) includes \$155,310 in fiscal year 1981-82 for 8.00 temporary positions and related expenses to meet workload increases in various departments and schools at the Manoa campus; provided further, that the University shall present twenty (20) days prior to the convening of the 1982 Regular Session of the Legislature a comprehensive internal reallocation plan of existing positions and resources from academic areas where student enrollment has declined over the past 10 years, to those areas where the present student demands have placed increased workload constraints on the faculty, clerical staff, and students.

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**SECTION 56.** Provided that of the general funds appropriated to the Instruction-University of Hawaii, Manoa program (UOH 101), \$124,000 in fiscal year 1981-82 shall be used to increase the stipends for Graduate Assistants by 7 percent.

**SECTION 57.** Provided that of the general fund appropriation for research and development to Organized Research —(UOH 102), \$300,000 in each year of the fiscal biennium 1981-1983 shall be for the purposes of the development and utilization of Hawaii's natural energy resources and the achievement of energy self-sufficiency; provided further that these funds shall supplement ongoing energy projects throughout the State; and provided further that reports be made to the 1982 and 1983 Regular Sessions of the Legislature on the utilization of the funds.

**SECTION 58.** Provided that the general fund appropriation to Public Service-University of Hawaii, Manoa (UOH 103) includes \$39,737 in fiscal year 1981-82 for the College of Continuing Education's program for Continuing Education for Women.

**SECTION 59.** Provided that of the general fund appropriation to Student Services, UOH Manoa, (UOH 105), \$62,958 for fiscal year 1982-83 shall be expended by the Women's Athletic program to meet the intent of Federal Title IX provisions; provided, further that the \$62,958 shall not be used to supplant any funds already available for women's athletic programs, provided further that the Board of Regents of University of Hawaii at Manoa through the President, shall develop and implement consistent policies which address the University's compliance with Title IX requirement and, in addition, reduce or minimize the use of state general funds.

**SECTION 60.** Provided that of the appropriation made for Academic Support-Systemwide Support (UOH 901), no more than \$200,000 in each fiscal year shall be expended for the President's Educational Improvement Fund; provided further, that a minimum of \$100,000 per year shall be expended from this fund for projects at the community colleges.

**SECTION 61.** Provided that the general fund appropriation to the System-wide Support — Institutional Program (UOH 903) includes \$15,000 in each year of the fiscal biennium 1981-83 to be expended at the discretion of the President of the University of Hawaii.

**SECTION 62.** Provided that of the general fund appropriation for Community College System-wide Support (UOH 906) includes an additional \$154,095 in fiscal year 1981-82 and \$212,877 in fiscal year 1982-83 for the Employment Training Program; provided further, that if federal funds are received by that program to replace the loss of CETA Youth Training funds, such receipts shall reduce the general fund appropriations for the Employment Training Program.

## **CULTURE AND RECREATION**

**SECTION 63.** Provided that of the general fund appropriation to Performing and Visual Arts Events (AGS 881), \$110,000 in each year of the fiscal biennium 1981-83 shall be allotted to the Ethnic Studies Oral History Project; provided further that the Ethnic Studies Oral History Project shall use the funds allotted to it, or any portion thereof, to compile, publish, and maintain an index of all state-funded

ethnohistorical and cultural (oral history) materials; provided further that any funds which are allotted to the Ethnic Studies Oral History Project may be used to obtain additional federal funds through the gifts and matching program of the Hawaii Committee for the Humanities, a public program of the National Endowment for the Humanities.

SECTION 64. Provided that of the general fund appropriation to Performing and Visual Arts Events (AGS 881), \$50,000 in each year of the 1981-83 biennium shall be allotted for grants-in-aid for the performing arts; provided further, that the grantees who receive these funds, or any portion thereof, shall be determined by the members of the State Foundation on Culture and the Arts.

SECTION 65. Provided that of the sum appropriated to Spectator Events and Shows (AGS 889), a sum not to exceed \$5,000 for each fiscal year of the fiscal biennium 1981-83 shall be authorized by the Stadium Authority to be expended at the discretion of the Stadium Manager for promotion and other Stadium purposes.

SECTION 66. Provided that for the Spectator Events and Shows Program (AGS 889), the general fund appropriation for each year of the fiscal biennium 1981-83 shall be reduced to the extent that special fund revenues exceed the amounts authorized in this Act.

## PUBLIC SAFETY

SECTION 67. Provided that of the general fund appropriation to the Intake Service Centers Program (SOC 394), \$13,621 for fiscal year 1981-82 and \$730 for fiscal year 1982-83 shall be used for state matching purposes.

SECTION 68. Any provision of this Act to the contrary notwithstanding, in the event expenses exceed the general fund appropriations made to the Oahu Community Correctional Center Program (SOC 407) in fiscal years 1981-82 and 1982-83 because of increased inmate population, the Governor is authorized to utilize moneys from the Governor's Contingency Fund, or savings as determined to be available from any other state program, for the purpose of meeting the deficits incurred by the Oahu Community Correctional Center Program.

SECTION 69. Provided that of the general fund appropriation to Adult Parole Supervision and Counseling (SOC 413), \$6,182 in fiscal year 1981-82 and \$8,242 for fiscal year 1982-83 may be used by the Hawaii Paroling Authority to lease a photocopy machine only if such equipment is no longer available to the Authority from the State Law Enforcement Planning Agency due to cutbacks in Law Enforcement Assistance Administration funds.

SECTION 70. Provided that of the general fund appropriation to the Amelioration of Physical Disasters Program (DEF 110), the sum of \$2,250,000 for each year of the fiscal biennium 1981-1983 shall be used exclusively for the relief from major disasters as intended under section 127-11, Hawaii Revised Statutes; provided further that the amount expended for each disaster shall not exceed \$750,000.

## INDIVIDUAL RIGHTS

SECTION 71. Provided that of the general fund appropriation to Regulation

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of Services, Communication, Utilities and Transportation (REG 103), the director of regulatory agencies may employ persons exempt from chapters 76 and 77, Hawaii Revised Statutes, to provide the public utilities division with expertise in regulatory matters; provided further that employees so hired shall serve under annual renewable contracts not to exceed \$40,000.

**SECTION 72.** Provided that of the general fund appropriation to General Support-Protection of the Consumer (REG 191), \$6,885 for fiscal year 1981-82 and \$9,180 for fiscal year 1982-83 shall be used for a Clerk III assigned to West Hawaii.

### **GOVERNMENT-WIDE SUPPORT**

**SECTION 73.** Provided that the appropriation to the Office of the Governor (GOV 100) shall be expended at the discretion of the Governor.

**SECTION 74.** Provided that the appropriation to the Office of the Governor (GOV 100) includes for each year of the fiscal biennium 1981-1983, \$250,000 for the Governor's Contingency Fund, which may be transferred to other appropriations allotted, with the approval of the Governor, for unexpected or unforeseen needs.

**SECTION 75.** Provided that of the general fund appropriation to the Office of the Lieutenant Governor (LTG 100) (AA), \$277,252 in fiscal year 1981-82 and \$279,538 in fiscal year 1982-83 shall be expended at the discretion of the Lieutenant Governor.

**SECTION 76.** Provided that any reimbursements received by the Office of the Lieutenant Governor (LTG 100) from the counties for county associated election costs in the fiscal biennium 1981-83 shall be deposited into the general fund.

**SECTION 77.** Provided that of the general fund appropriation to the Office of the Lieutenant Governor (LTG 100), \$79,874 for fiscal year 1981-82 shall be for the Commission on Reapportionment.

**SECTION 78.** Provided that in the event expenses specified in Section 621-9, Hawaii Revised Statutes (Witness Fees), exceed the general fund appropriations made to Program, Planning, Analysis, Budgeting, and Coordination Program (BUF 101) in each year of the fiscal biennium 1981-83 for the purposes stated therein, the Director of Finance with the approval of the Governor is authorized to utilize moneys from the Governor's Contingency Fund, or savings as determined to be available from any other state program for the purpose of meeting deficits incurred by the Department of Budget and Finance.

**SECTION 79.** Provided that the Department of Budget and Finance shall conduct a needs assessment of word processing equipment for the purpose of developing appropriate criteria and policy directives on state purchasing and contracting; and provided further that such needs assessment shall coordinate departmental workload with services provided by Electronic Data Processing (EDP); and provided further that the results of this study shall be made available to the legislature at least twenty (20) days prior to the convening of the 1982 legislature.

• **SECTION 80.** Provided that a status report on the Economic Planning Informational System under the Statewide Plan and Coordination Program (PED 103) shall be presented to the Legislature twenty days prior to the convening of the

1982 session; and provided further that such status report include a description of its activities and accomplishments as well as the feasibility and need of establishing a management informational system on a statewide basis.

SECTION 81. Provided that of the general fund appropriation to Governor-Other Policy Development and Coordination (GOV 102), \$41,628 in fiscal year 1981-82 shall be used by the Office of Information to implement a pilot program designed to improve and expand services regarding public information; provided further, that the Office of Information shall submit, twenty days prior to the convening of the 1982 Regular Session of the Legislature, a report on the effectiveness of this pilot program.

SECTION 82. Provided that of the general fund appropriation to the Governor — Other Policy Development and Coordination Program (GOV 102), \$20,000 in fiscal year 1981-82 shall be for planning a conference for the American Association of Nurserymen.

SECTION 83. Provided that of the general fund appropriation to the Supporting Services, Revenue Collection Program (TAX 107) includes \$100,000 for each year of the fiscal biennium 1981-83 for the requirements of litigated tax claims pursuant to section 40-35, Hawaii Revised Statutes.

SECTION 84. Provided that the general fund appropriation to the Recording and Reporting Program (AGS 103) includes \$55,218 in fiscal year 1981-82 and \$60,736 in fiscal year 1982-83 to be expended only for escheated outlawed warrants pursuant to the provision of section 40-68, Hawaii Revised Statutes.

SECTION 85. Provided that the general fund appropriation to the Cash and Debt Management Program (BUF 110) includes \$150,000 for each year of the fiscal biennium 1981-83 to meet requirements of the Uniform Disposition of Unclaimed Property Program, pursuant to section 523-20, Hawaii Revised Statutes.

SECTION 86. Provided that of the general fund appropriation to Legal Services (ATG 100), \$39,240 for fiscal year 1981-82 and \$42,379 for fiscal year 1982-83 shall be used for the payment of tort claims arbitrated, compromised, or settled for amounts not in excess of \$2,000; provided further that of the general fund appropriation to Legal Services (ATG 100), \$218,000 in fiscal year 1981-82 and \$235,440 in fiscal year 1982-83 shall be used for litigation purposes.

SECTION 87. Provided that of the position counts authorized for the Legal Services program (ATG 100), none shall be used to convert the attorney general's position assigned to the State Health Planning and Development Agency from temporary to permanent status.

SECTION 88. Provided that of the appropriation to Work Force Attraction, Selection, Classification and Effectiveness (PER 102) three position counts and \$111,168 for the fiscal biennium 1981-1983 shall be for the transfer of positions 23111, 30090, and 90003P from Supporting Services Personnel Services (PER 191).

SECTION 89. Provided that notwithstanding any position ceiling the Governor may transfer positions and funds between existing programs of the state government for the purpose of establishing an integrated statewide data processing system.

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**SECTION 90.** Provided that to the extent that the sums appropriated for the payment of principal and interest on general obligation bonds are insufficient to meet and pay all such obligations at maturity in accordance with the terms of such bonds, there is hereby appropriated out of the general fund of the State all amounts necessary for the payment of the principal and interest of the bonds as they mature, and this appropriation shall be a paramount appropriation upon the general fund of the State.

**SECTION 91.** Provided that any funds appropriated for lease rent to an agency relocated to the Old Federal Courthouse Building shall be restricted from expenditure by the Governor in accordance with its date of occupancy.

## **PART IV. CAPITAL IMPROVEMENT PROJECTS**

**SECTION 92. Capital improvement projects authorized.** The sums of money appropriated in Part II of this Act for capital investment shall be expended for the projects listed below. The appropriations accounting by the Department of Accounting and General Services shall be made 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 land acquisition, plans, design, construction and equipment 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.)

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Avg.	APPROPRIATIONS (\$1,000's)				
					FY 1981-82 F	M 0	FY 1982-83 F	M 0	Total M
<b>A. ECONOMIC DEVELOPMENT</b>									
	TOURISM		PED 113						
1.	Waikiki Improvements, Oahu		TOUROI						
	Plans, land acquisition, design and construction of improvements and other public facilities for the general improvements of the Waikiki area, provided that 20 percent of State funds allotted for this purpose shall be first matched by funds of the City and County of Honolulu; and provided further, that funds not expended in a cost element may be transferred for use in another cost element.				1	1	1	1	
	Plans				1	1	1	1	
	Land Acquisition					1	1	1	
	Design					6,080	6,080	6,080	
	Construction					1	1	1	
	Equipment								6,084C
	Total Funding		PED					C	6,084C
<b>AGRICULTURE</b>									
	General Support for Agr		AGR 192						
	General Administration for Agr								
2.	Agricultural Park Subdivision, Statewide		AOI						
	Plans and construction of on and off site improvements for development of agricultural lots.								
	Plans					75	75	75	
	Design					240	240	240	
	Construction					2,650	2,650	2,650	
	Total Funding		AGS			2,965C	C	C	2,965C

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	aid fin/reimb.				
	Plans				
	Equipment				
	Total Funding				
6.	Alternate Energy Demonstration and Commercialization Projects	AES775			
	Plans, design, and construction of facilities to demonstrate feasibility of alternate energy resources in Hawaii and for facilities required in the commercialization of alternate energy resources found to be economically feasible. Funds not needed for a cost element may be transferred and used for a different cost element. Funds may be used to match non-state funds.				
	Plans	100	100	100	100
	Land Acquisition	1	1	1	1
	Design	130	130	130	130
	Construction	769	769	769	769
	Equipment	200	200	200	200
	Total Funding	PED	1,200C	C	1,200C
	WATER DEVELOPMENT & IRRIGATION SERVICES	LNR 141			
7.	Water Sources Investigation, and Development, Hawaii	G25			
	Engineering and economic studies, geologic and hydrologic investigation, exploration and development for the conservation and utilization of surface and ground water sources including the improvement of water quality and development of water for instream uses.				
	Plans	3	3	3	3
	Land Acquisition	2	2	2	2
	Design	25	25	25	25
	Construction	370	370	370	370
	Total Funding	LNR	400C	C	400C

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agv.	APPROPRIATIONS (\$1,000's)			
					FY 1981-82 M	FY 1982-83 M	Total M	Biennium O
8.	Water Sources Investigation, and Development, Oahu	G43			50	50	50	50
	Engineering and economic studies, geologic and hydrologic investigation, exploration and development for the conservation and utilization of surface and ground water sources including the improvement of water quality and development of water for instream uses.							
	Plans				50	50	50	50
	Land Acquisition				80	80	80	80
	Design				820	820	820	820
	Construction							
	Total Funding			LNR	1,000C	C	1,000C	
9.	Water Sources Investigation, and Development, Kauai	G44			15	15	15	15
	Engineering and economic studies, geologic and hydrologic investigation, exploration and development for the conservation and utilization of surface and ground water sources including the improvement of water quality and development of water for instream uses.							
	Plans				10	10	10	10
	Land Acquisition				25	25	25	25
	Design				350	350	350	350
	Construction							
	Total Funding			LNR	400C	C	400C	
10.	Water Resources Development for Agriculture Statewide Planning ACQ design and construct of water facil	G45			141	141	141	141

for agriculture, including water development for aquaculture.

Plans	10	10
Land Acquisition	3	3
Design	50	50
Construction	1,162	1,162
Total Funding	1,225C	1,225C

#### 11. Water Sources Investigation, and Development, Maui

Engineering and economic studies, geologic and hydrologic investigation, exploration and development for the conservation and utilization of surface and ground water sources including the improvement of water quality and development of water for instream uses.

Plans	15	15
Land Acquisition	10	10
Design	25	25
Construction	350	350
Total Funding	400C	400C

### C. TRANSPORTATION FACILITIES

#### AIR TRANSPORTATION FACILITIES AND SVCS

##### HIA Facilities & Svcs

TRN 102

#### 1. Auto Parking Facilities at Honolulu International Airport

Prepare site, install all civil utilities and electrical utilities underground, and construct multi-level parking structure entrance and exit roadways and exit plaza and appurtenances.

Design	2,100	2,100
Total Funding	E	2,100E
		2,100E

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)					
					FY 1981-82	M F	FY 1982-83	M F	Total M FY 1982-83	M Biennium 1981-83
2.	Diamond Head Extension to Overseas Terminal at Honolulu International Airport	A07			2,100		8,000		2,100	
	Construction of the Diamond Head extension to the overseas terminal and appurtenances and the fronting enplaning-deplaning roadways and other miscellaneous improvements.				16,000				24,000	
	Design									
	Construction									
	Equipment									
	Total Funding									
3.	Overseas Hardstands and Gates at Honolulu International Airport	A08			6,600B		8,000B		14,600B	
	Design and construct new hardstands and alterations to existing holding rooms, air cargo and other misc improvements. This project qualifies for fed aid financing/reimbursement.				13,400E		E		13,400E	
	Design									
	Construction									
	Total Funding									
4.	New Inter-Island Terminal Complex at Honolulu International Airport	A11			1,400		10,000		1,400	
	Construct new passenger terminal, land acquisition, aircraft taxiways and parking apron, connecting roadways and other miscellaneous improvements. Relocate existing inter-island maintenance. Cargo and administrative offices. Alterations to existing parking areas, roadways and landscaping. Install furniture and miscellaneous equipment.				1,400B		3,700B		5,100B	
	Design				TRN		TRN		6,300E	

	Construction					
	Total Funding					
5.	Lagoon Drive Relocation and Utility System Extension at HIA	A25	TRN	10,000 14,000E	10,000 12,000E	20,000 26,000E
	Construct new makai roadway along south ramp and extend utility system and other appurtenant improvements.					
	Design					
	Construction					
	Total Funding					
6.	Improvements to South Ramp at HIA Construct cargo terminal T-Hangers, apron, lighting, fencing and other appurtenant improvements for the expansion of South Ramp.	A26	TRN	350 2,050 2,200B 200N	B N	350 2,050 2,200B 200N
	Design					
	Construction					
	Total Funding					
7.	Service Court Development at HIA Design and install roads, utilities, landscaping, and other improvements for service court areas.	A27	TRN	300 300B E	1,000 B 1,000E	300 1,000 300B 1,000E
	Design					
	Construction					
	Total Funding					
8.	Expansion and Alterations to Baseyard Facilities at Honolulu International Airport Design and construct expansion and renovations to maintenance baseyard facility including storage area, paint shop, exterior doors, and other related improvements.	A36	TRN	140 300 440E	1,060 1,060E	140 1,360 1,500E
	Design					
	Construction					
	Total Funding					

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agv.	APPROPRIATIONS (\$1,000's)			
					FY 1981-82 F	M 0	FY 1982-83 F	M 0
9.	Improvements to Overseas Terminal Facilities at Honolulu International Airport	A37			500		500	
	Design and installation of 400 HZ, loading bridges, integrated system for energy management, flight information, safety & security systems, and other miscellaneous improvements.				3,000	B	2,000B	5,000
	Design				3,500E	E		2,000B
	Construction							3,500E
	Total Funding							
<b>GENERAL AVIATION FACILITIES AND SERVICES</b>					TRN 104			
10.	Oahu General Aviation Airport—Wheeler Support facilities and necessary improvements for joint use of Wheeler Airfield.	A71						
	Plans				250		250	
	Design				250		250	
	Construction				4,500		4,500	
	Total Funding				5,000E	E	5,000E	
<b>General Lyman Field Facilities &amp; Services</b>					TRN 111			
11.	General Lyman Field Terminal Improvements	B11						
	Design and construct improvements to terminal emergency power system including ductlines and control to the airfield lights.							
	Design				60		60	
	Construction				600		600	
	Total Funding				60E		600E	

	Ke-ahole Airport Facilities and Services		
12.	Terminal Improvements at Ke-ahole Airport	TRN 114	C03
	Design and construct modifications to terminal including new concession area, airport administrative area, emergency generator and duct lines and other miscellaneous improvements.		
	Design	280	280
	Construction	460	460
	Total Funding	740E	1,500
			1,500E
13.	Airfield Improvements		C05
	Expand aircraft apron, landscaping, and other appurtenances. This project qualifies for fed aid financing/reimbursement.		
	Design	2,000	2,000
	Construction	2,000E	E
	Total Funding		2,000E
14.	Improvements to General Aviation Area at Ke-ahole Airport		C06
	Construct T-Hangars and appurtenances.		
	Design	50	50
	Construction	400	400
	Total Funding	450E	450E
15.	Air Cargo Facilities at Keahole Airport	TRN 114	C07
	Develop facilities for air cargo including utility systems, roadways, parking, terminal, and other appurtenances.		
	Design	60	60
	Construction	440	440
	Total Funding	500E	500E

## ACT 1

**Air Transportation Facilities & Svcs Support**

TRN 195

18.	Airport Planning Statewide	F04				
	Provide basic data and information for proper planning, preliminary designs, special engineering, architectural, environmental and special studies for the statewide system of airports and continue review and updating of master plans. This project qualifies for federal aid financing/reimbursement.					
	Plans		500	300	800	
	Total Funding		500B	300B	800B	
19.	Improvements for the Handicapped at Various Statewide Airports	F07				
	Miscellaneous improvements to various statewide airports to accommodate the handicapped.					
	Design		425		1,250	
	Construction		425E		1,050E	
	Total Funding		N	200N	1,475E	
20.	Airport Certification, Safety, Security, and Compliance Statewide	F08				
	Miscellaneous improvements to various airports to comply with certification, safety, security, and compliance requirements.					
	Design			75	75	
	Construction			75E	750E	
	Total Funding				825E	

# ACT 1

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Exp. Av.	APPROPRIATIONS (\$1,000's)							
				FY M 1981-82	FY M 1982-83	FY O F	Total M	Biennium O 1981-83			
<b>WATER TRANSPORTATION FACILITIES AND SERVICES</b>											
Honolulu Harbor Facilities and Services											
21.	Improv to Fac Piers 19-34 at Hon. Har	J02									
	Improvement of roadways, sheds, parking, lighting, utilities and other facilities to the Pier 19 to 34 area including reconstruction of Pier 20 fender system, paving, drainage, and lighting improvements at Pier 20 backup area.										
	Design										
	Construction										
	Total Funding		TRN	86	86B	828B	828	914B			
22.	Misc Improv to Exist Pier Fac at Hon Har	J03									
	Miscellaneous improvements to existing piers, sheds and yard facilities at Honolulu Harbor, including improvements to lighting, paving, and other facilities.										
	Design										
	Construction										
	Total Funding		TRN	9	66	75B	70	136			
								155B			
23.	Improvements to Fort Armstrong Facilities	J04									
	Reconstruction of fendering system at Piers 1 and 2										
	Design										
	Construction										
	Total Funding		TRN	80	732	812B		812B			
								B			

24.	Waterfront Redevelopment, Hon Har Planning for redevelopment of existing facilities between Piers 2 to 18. Plans	J05						
	Total Funding		TRN	50	B		50	50B
25.	Container Facilities at Sand Island, Oahu Expansion and development of container facilities at Sand Island, including piers, sheds, yard areas and other improvements. Design Construction Total Funding	J06					150 3,385 3,535E	3,385 3,535E
26.	Development of Piers 41-42, Honolulu Construction of pier, yard, utilities and other related improvements. Design Construction Total Funding	J19					TRN 3,535E	E
27.	Improvements to Piers 39-40 Complex, Hon Har Shed renovation, pier and yard improvements at Piers 39-40. Design Construction Total Funding	J20					TRN 2,220E	205 205B
28.	Commercial Fisheries Facility Develop- ment Construction of pier facilities at Piers 16 and 37 and other improvements. Design Construction Total Funding	J25					TRN 2,650C	75 2,575 2,650C

## ACT 1

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)				
					FY 1981-82	M 0 F	FY 1982-83	M 0 F	Total M
					Biotium O	Biotium F	1981-83	F	
29.	Gateway Beautification Project Landscaping, sprinkler systems, utility relocations, and other related improvements including upgrading and painting of harbor facilities along the highway.	J26			15				
	Design				15				
	Construction				75				
	Total Funding				90B				
30.	Barbers Point Harbor Facilities and Services Barbers Pt Deep Draft Harbor Improvements Oah	J11	TRN	TRN 303					
	Incremental development of Barber's Point Harbor including dredging, piers, shed, yard areas & other improvements. Possible federal participation for this project is approximately \$76,100,000.								
	Design								
	Construction								
	Total Funding								
31.	Hilo Harbor Facilities and Services Container Facilities at Hilo Harbor, Hawaii Design and construction of additional container yard area at Hilo Harbor.	L06	TRN	TRN 311					
	Design								
	Construction								
	Total Funding								

32.	Kawaihae Harbor Facilities and Services Barge Terminal Improvements at Kawaihae Harbor Demolition of existing office and shop facilities, improvements to barge terminals backup facilities and other related improvements. Construction Total Funding	TRN 313 L05  213 213B	B	213 213B
33.	Kahului Harbor Improvements Maui Improvements to Pier 3 RO/RO yard area including paving, lighting and other facilities Design Construction Total Funding	M01  30 400 430B	30 400 430B	30 400 430B
34.	Nawiliwili Harbor Facilities and Services Nawiliwili Harbor Improvements Kauai Improvements to harbor backup facilities includ- ing Kanoa St. area, and yard and shed improve- ments at Pier 1. Design Construction Total Funding	K01  65 65B 600B	60 540 600B	60 540 665B
35.	Additional Pier Facilities, Nawiliwili Harbor Design and construction of segmented pier on the west side of Pier 2 at Nawiliwili Harbor Design Construction Total Funding	K07  70 70B	70 620 620B	70 620 690B

## ACT 1

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID Agy.	APPROPRIATIONS (\$1,000's)				
				FY M 1981-82	FY Q 1982-83	Total M 1982-83	Biennium O 1981-83	F
	Water Transportation Fac & Svcs Support		TRN 395					
36.	Statewide Harbor Planning Continuing harbor studies, research and advance planning of harbor and terminal facilities on all islands.	101						
	Plans		TRN	100	100B			
	Total Funding					B	100	100B
37.	Misc. Imprv. to Fac. at Neighbor Is. Ports Improvements to yard areas, sheds, piers, utilities, water areas and other facilities.	103						
	Design			8		8	16	
	Construction			42		42	84	
	Total Funding		TRN	50B				100B
	LAND TRANSPORTATION FACILITIES AND SERVICES		TRN 501					
	Oahu Highways and Services							
38.	Interstate Route H-1, East of Halawa I.C. to Middle Street Separation, Oahu Incremental construction of eight freeway lanes, including Pearl Harbor, Airport and Keehi interchanges.	R12						
	Land Acquisition			100		100	100	
	Design			100		100	100	
	Construction			35,750				35,750
	Total Funding		TRN	4,494D				4,494D
			TRN	31,456J			J	31,456J

39.	Interstate H-1, Improvements to the Pearl City Off Ramp, Oahu Extend deceleration lane, construct additional lane on the off ramp and on Moanalua Road between the ramp and Hoomalu Street. Construction Total Funding	R14				1,235 123D 1,112J	D J	1,235 123D 1,112J
40.	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. Land Acquisition Design Construction Total Funding	R30				3,357 9,310 20,788 5,026D 28,429J	D J	3,357 9,310 20,788 5,026D 28,429J
41.	Pali Highway Improvement, Waokanaka to Vineyard Boulevard, Oahu Construction of additional traffic signals. Construction Total Funding	\$51				100 100D	D	100 100D
42.	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-Hanakai Street section. Construction Total Funding	\$70				1,662 512D 1,150M	D M	1,662 512D 1,150M

# ACT 1

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)					
					FY 1981-82 M	FY 1982 F	Total M	FY 1981-82 O	FY 1982 F	Total M
43.	Honolulu Airport Gateway Beautification, Nimitz Highway & Ala Moana Blvd., Oahu.	S76								
	Landscape and sprinkler systems on Nimitz Highway and Ala Moana Blvd. from the vicinity of Sand Island Access Road to the vicinity of Ala Wai Canal.									
	Design				62		62			
	Construction				138		138			
	Total Funding				200D		D			
44.	Guardrail & Shoulder Improve. at Various Loc on State Highways on Oahu.	S78								
	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				22		22			
	Construction				405		405			
	Total Funding				427B		427B			
45.	Likelike Highway Improvements, Vicinity of Kula Kolea to Kam IV Road, Oahu	S92								
	Roadway improvements and additional lane construction									
	Design				1,330		1,330			
	Construction				332D		332D			
	Total Funding				998K		998K			

				TRN 501
46.	Likelike Highway Improvement, Kam IV Road to Kalihii Street, Oahu	S93		
	Roadway improvements, additional lane, pedestrian footpath, and traffic signal including widening of Kalihii Stream bridge and removal of pedestrian footbridge at Kalihii Stream bridge			
	Construction	1,800	1,800	
	Total Funding	TRN	450D 1,350K	D K
				1,350K
				1,800
47.	Hawaii Highways and Services Kuakini Highway, Hawaii	T04	TRN 511	
	Realignment of present two-lane highway to meet the Kaihua-Kawaihae Road and its intersection with Palani Road			
	Land Acquisition	1,131	1,131D	D
	Total Funding	TRN	1,131D	1,131D
48.	Hawaii Belt Road: Replacement of 5 Bridges Hawaii Belt Road improvement, Hamakua, Hawaii: Replace existing wooden bridges at Kainehie, Kahohalele, Paauilo School and east Paauilo Streams and concrete bridge at Keala-kaha Stream.	T27		
	Hawaii Belt Road: Replacement of 5 Bridges			
	Hawaii Belt Road improvement, Hamakua, Hawaii: Replace existing wooden bridges at Kainehie, Kahohalele, Paauilo School and east Paauilo Streams and concrete bridge at Keala-kaha Stream.			
	Construction	3,294	3,294	
	Total Funding	TRN	638D 2,656N	D N
				638D 2,656N
49.	Guardrail and Shoulder Improvements, Various Locations on State Highways	T77		
	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	14	14	
	Construction	280	260	
	Total Funding	TRN	294B	27
				540
				567B

## ACT 1

Item No.	Program and Capital Project	Cap. Proj. No.	Exp. Av.	APPROPRIATIONS (\$1,000's)				
				FY 1981-82 M F	FY 1982-83 O F	Total M O F	Biennium 1981-83 F	Total M O F
	Maui Highways and Services							TRN 531
50.	Pūlani Highway, Kihei to Ulupalakua, Incremental construction of highway from Kihei to Ulupalakua.	V43						
	Land Acquisition			1,986		1,986		
	Construction			2,621		2,621		
	Total Funding			TRN	1,224D	D	1,224D	
				TRN	3,383K	K	3,383K	
51.	Hana Highway-Huelo to Hana, Maui Repair and replacement of bridges and culverts, safety improvements and resurfacing of Hana Highway from Huelo to Hana.	V45						
	Design			60		60		
	Construction			580		580		
	Total Funding			TRN	640D	D	640D	
52.	Guardrail and Shoulder Improvements on State Highways on Maui.	V48						
	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			35		35		
	Construction			350		350		
	Total Funding			TRN	385B	B	385B	
								770B

## Molokai Highways and Services

53.	Guardrail and Shoulder Improvements on State Highways on Molokai.	W08						
	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.							
	Design		25		25		25	
	Construction		25B		250		250	
	Total Funding		TRN	25B	250B		275B	
	Lanai Highways and Services		TRN 551					
54.	Guardrail and Shoulder Improvements on State Highways on Lanai.	W58						
	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			15		15		15
	Construction				15B		150	
	Total Funding		TRN		150B		165B	
	Kauai Highways and Services		TRN 561					
55.	Guardrail and Shoulder Improvements at Various Locations on State Highways on Kauai.	X51						
	Upgrading of existing dirt or sod shoulders with stabilized base and surface treatment or paving & installation of metal guardrails & modernization of existing guardrails at various locations on state highways on Kauai.							
	Design			10		25		35
	Construction				150		222	
	Total Funding		TRN	160B		247B		407B

## ACT 1

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)				
					FY 1981-82 M F	M O F	M O F	Total M O F	Biennium M O F
56.	Land Transportation Fac & Svcs Support	X91		TRN 595					
	Construction of Wheelchair Ramps-Statewide								
	Construction of wheelchair ramps at various locations along state highways, statewide.								
	Design					5	5	10	
	Construction					45	45	90	
	Total Funding					50B	50B	100B	
57.	Miscellaneous Improvements to Existing Intersections & Highway Facilities, Statewide	X98		TRN 595					
	Miscellaneous improvements to existing intersections and highway facilities necessary for traffic safety.								
	Land Acquisition					100	100		
	Design					235	235		
	Construction					1,815	1,815		
	Total Funding					625D	625D		
						1,525N	1,525N		
58.	Highway Planning, Statewide	X99		TRN 595					
	Road use, road life, economic studies, research and advance planning of federal-aid and non-federal highway projects.								
	Plans								
	Total Funding								

**D. ENVIRONMENTAL PROTECTION****POLLUTION CONTROL****Solids, Liquids, Gases, and Noise****HTH 840****1. Sewerage Construction Grants**

Grants to county or state agencies 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. Unexpended balances in item D1 Act 214/79; item D1 Act 300/80 shall be used for this purpose. (to be expended by DOH)

Plans	100	
Design	200	
Construction	3,620	
Total Funding	3,920C	C

HTH	100	
	200	
	3,620	
	3,920C	C

**PRESERVATION AND ENHANCEMENT****LNR 404****2. Water Resources**

Groundwater Monitor Wells—Statewide  
Construction of monitor wells including measuring apparatus and appurtenances.

Plans	5	
Land Acquisition	30	
Design	30	
Construction	515	
Equipment	20	
Total Funding	600C	C

	5	
	30	
	30	
	515	
	20	
	600C	

## ACT 1

Item No.	Program and Capital Project	Cap. Proj. No.	Exp. Agy.	Program ID	APPROPRIATIONS (\$1,000's)								
					FY 1981-82 M F	FY 1982-83 O F	Total M FY 1982-83 C	Total M Biennium O 1981-83 F					
<b>E. HEALTH</b>													
<b>PHYSICAL HEALTH</b>													
<b>Communicable Diseases</b>													
<b>Leprosy</b>													
1.	Install Filtration System and Other Related Improvements to Kalauapapa Water System	HTH 111											
	Construct and install a filtration system and make other related improvements to enable the Kalauapapa Water System to meet turbidity and bacteriological maximum contaminant level requirements under P.L. 93-523, Act 66, SLH 1977 and drinking water regulations of the Department of Health	111003											
	Design				10			10					
	Construction				90			90					
	Total Funding		AGS		100C		C	100C					
<b>Health Care Services</b>													
2.	Recompression (Hyperbaric) Treatment Center	HTH 801											
	Plans and construction for the development of a "recompression (hyperbaric) treatment center" for diving accident victims.	801007											
	Plans				25			25					
	Construction				175			175					
	Total Funding		AGS		200C		C	200C					
<b>Hospital Care</b>													
3.	Hilo Hospital	HTH 211											
	Hilo Hospital Complex—Complex Master Plan	211002											

Develop a master plan complex which includes the utilization of the adjacent state land.

Plans					
Total Funding					
Ka'u Hospital	HTH 213				
OT PT Expansion & Shell Basement for Pub Hlth Home Hlth Office Maint & Storage Area, Kau HP					
213001					
Construction					
Total Funding					
Kohala Hospital	HTH 214				
5. Kohala Hospital—Renovation of Therapy Bathroom	214001				
Renovate, expand and modernize existing therapy bathroom. Remove existing wall of adjoining linen room and utilize entire floor area as therapy bathroom. 256 sq. ft.; ceramic tile flooring to 112 sq. ft expanded area; relocation of pharmacy.					
Design		4			
Construction		46			
Total Funding		50C			
Kohala Hospital — Relocation of Linen Room	214002				
Relocation due to adjoining therapy bathroom being expanded into entire area of existing linen room. 195 sq. ft. floor area; hollow block exterior wall; cement slab floor.					
Design		3			
Construction		10			
Total Funding		13C			

## ACT 1

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. A.G.V.	APPROPRIATIONS (\$1,000's)				
					FY 1981-82 M	FY 1982-83 M	Total M	FY 1981-82 O	FY 1982-83 O
7.	Kohala Hospital—Extension of Business Office	214003							
	To allow for larger working area in business office. Additional 200 sq. ft. floor space; cement slab floor; hollow block exterior wall; acoustic ceiling (fire resistant galvanized roofing; jalouse window with plate glass; double action door).				4		4	40	40
	Design				4				
	Construction				40				
	Total Funding		AGS		44C				
8.	Samuel Mahelona Memorial Hospital Acute Psychiatric Care Area	232001							
	The existing acute psychiatric area of SMMH does not conform to any standards this project will provide 9 conforming acute psychiatric beds for the entire island of Kauai.								
	Construction								
	Total Funding		AGS		566				
	MENTAL HEALTH				566C				
	Hawaii State Hospital								
9.	Hawaii State Hospital Oahu	430001							
	New or modification of facilities of Hawaii State Hospital to meet all codes and standards required of hospitals by code enforcing agencies and to meet program needs. Also construct covered walkways interconnecting the structures.								
	Design								
	Total Funding		AGS		338				
					338C				

## **OVERALL PROGRAM SUPPORT**

### **General Administration**

HTH 907

# ACT 1

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)				
					FY 1981-82	M F	FY 1982-83	M F	Total M
									Biennium O
									1981-83 F
3.	Installation of Heater Enclosures at Palolo Homes I and II	KH8103							
	Replacing existing wood sidings at laundry area with reinforced concrete masonry unit walls and installing new heater room doors								
	Construction				240			C	240
	Total Funding		SOC		240C				240C
4.	Electrical Modernization at Lokahi	KH8104							
	Installing new light fixtures additional outlets partial rewiring and ground fault interrupters								
	Construction							C	50
	Total Funding		SOC		50C				50C
5.	Installation of Security System at Pumehana	KH8105							
	Installing security walls and enterprise system								
	Design								5
	Construction							C	50
	Total Funding		SOC		55C				55C
6.	Kitchen Renovation at Hauiki	KH8106							
	Installation of additional cabinets electrical fix- tures floor tiles and plumbing fixture alteration								
	Construction								
	Total Funding		SOC		90C			C	90C
7.	SERVICES TO NATIVE HAWAIIANS Pnng, Devpt and Mgt for Hawn Homestd Lands	HHL 602							
	Waimanao Residential Subdivision								

Plans and construction for incremental development and improvements, onsite and offsite, including preparation of master plan.

**Construction**

Total Funding

HHL	HHL	C N
3,080	1,280C	3,080
1,280C	1,280C	1,280C
1,800N		1,800N

**8. Paukukalo Residential Subdivision**

Plans and construction for incremental development and improvements, onsite & offsite, including preparation of master plan.

**Construction**

Total Funding

HHL	HHL	C
580	580C	580C

**9. Kawahaie Residential Subdivision**

Plans and construction for incremental development and improvements, onsite & offsite, including preparation of master plan for Kawahaie Area.

**Construction**

Total Funding

HHL	HHL	C
470	470C	470C

**10. Keaukaha Residential Subdivision**

Plans and construction for incremental development and improvements, onsite and offsite, including preparation of master plan.

**Construction**

Total Funding

HHL	HHL	C
40	40C	40C

**11. Anahola-Moloaa Farm and Pastoral Subdivision**

Plans and construction for incremental development and improvements, onsite and offsite, including preparation of master plan.

**Construction**

Total Funding

HHL	HHL	C
1,470	1,470C	1,470C

## ACT 1

2.	Minor Improvements to buildings and school sites.	002							
	Design		50	225		50	225		
	Construction			25		25			
	Equipment					25			
	Total Funding			300C					
3.	Lump Sum for Master Plans and Site Studies Minor Land Acquisition	003							
	Acquisition of small parcels, master planning, pre-land acquisition studies, site selection and feasibility studies to meet future and unforeseen school needs. CIP assistance from DAGS in pro- viding cost estimates for budgeting and expen- iture planning								
	Plans		100	100C		100	100C		
	Total Funding			AGS		C	100C		
4.	Removal of Architectural Barriers	005							
	To provide ramps and other corrective measures for easy accessibility of school facilities to handi- capped persons.								
	Design			150	150C		150	150C	
	Total Funding			AGS		C	100C		
5.	Lump Sum—Conversion of Classrooms Conversion of open classrooms to smaller units.	007							
	Design		100			100			
	Construction			750		750			
	Total Funding			830C		C	850C		
6.	Lump Sum—Fire Protection System; Fire Alarm Systems	008							
	Fire protection systems to meet water system standards								
	Design		50			50			
	Construction			500		500			
	Total Funding			550C		C	550C		

## ACT 1

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. A/E.	APPROPRIATIONS (\$1,000's)				
					FY 1981-82 M	FY 1982-83 M	Total M	Biennium O	1981-83 F
7.	Lump Sum—Correction to Sound Problem	009							
	To provide corrective measures on excessive exterior noise that affect classrooms								
	Design				50		50		
	Construction				500		500		
	Total Funding				550C		C		
8.	Conversion of Classrooms for Special Education	013							
	Conversion of classrooms to accommodate special education students to meet state and federal regulations								
	Design				100		100		
	Construction				990		990		
	Equipment				10		10		
	Total Funding				1,100C		C		
9.	Pearl Ridge Elem	225004							
	Design and construct classroom building								
	Design								
	Total Funding				70		C		
10.	Waianae High School	325007							
	Construction of (5) industrial educational classrooms.								
	Construction								
	Total Funding				920		C		
11.	Crestview Elem	340002							
	D and C classroom building, temporary adminis-								



# ACT 1

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agt.	APPROPRIATIONS (\$1,000's)			Total M
					FY 1981-82 F	M 0	Total M	
16.	Waiakea High School Design & construction, secondary classrooms, equipment and appurtenances, covered walkway. Construction Equipment Total Funding	5252004			1,917	16	1,917	16
17.	Waimea Elementary and Intermediate School Waimena, S. Kohala, Hawaii Design and construction — classroom building, covered walkway, equipment and appurtenances. Construction Equipment Total Funding	528001	AGS		1,933C	C	1,933C	C
18.	Kahakai Elem (Keauhou-Kailua) Design and construct classroom building. Design Construction Equipment Total Funding	532003			717	5	717	5
19.	Iao School, Maui Design and construct P.E. locker/shower facility Construction Equipment Total Funding	603003	AGS		722C	C	722C	C
20.	Kihei School, Maui Design and construct regular and special class- rooms Design Total Funding	608003	AGS		1,064	20	1,064	20
					1,073	5	1,073	5
					1,078C	C	1,078C	C
					87		87	
					87C	C	87C	C

21.	Waihee Elementary School Plan, design and construct classroom building	622005						
	Plans		10					10
	Design		75					75
	Total Funding		85C					85C
22.	Lahaina Intermediate School Design and construct classroom building	624008						
	Design		75					75C
	Total Funding		75C					75C
23.	Makawao Intermediate School Plan, design and construct first increment; class- rooms, P.E. locker/shower facility, kitchen and dining facilities.	625002						
	Plans		30					30
	Total Funding		30C					30C
24.	Kauai High and Inter Renovation and improvement of the former KCC facilities for the intermediate level.	705005						
	Construction		2,018					2,018
	Equipment		20					20
	Total Funding		2,038C					2,038C
25.	Wainaea High Design and construct physical education locker/shower & athletic lockers including 2- classrooms	712003						
	Construction		2,112					2,112
	Equipment		6					6
	Total Funding		2,118C					2,118C

# ACT 1

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)		
					FY 1981-82 M	FY 1982-83 F	Total M
26.	EXCEPTIONAL CHILD PROGRAM Pohukaina School Design and construction—renovation of classrooms at Kaimuki Intermediate School. Design Total Funding	156001	EDN 107				
	PUBLIC SERVICE Public Libraries		AGS	100 100C	C	100 100C	
27.	Milliani Community Library Design and construct a community library facility to serve community of Milliani Construction Equipment Total Funding	801020			2,380 15 2,395C	C	2,380 15 2,395C
	HIGHER EDUCATION University of Hawaii, Manoa Instruction — UOH, Manoa		UOH101				
28.	George Hall Renovations Renovations to accommodate the school of travel industry management including improvements to lighting, acoustics, ventilation and circulation systems. Design Construction Total Funding	O22			O22		33 755 788C

29.	Law School Facilities University of Hawaii at Manoa Construction and furniture and equipment for the law school facilities. Design Construction Equipment Total Funding	O52				
30.	Oceanographic and Marine Laboratory Furniture and equipment for offices, classrooms, laboratories for the marine programs. Equipment Total Funding	113				
31.	Organized Research—UOH, Manoa Mec—Core Storage Building University of Hawaii, Snug Harbor Construction and furniture and equipment for the Core Storage Building. Construction Total Funding	122	UOH102			
32.	Student Services—UOH, Manoa Baseball Grandstand & Other Improve- ments, Hawaii, Manoa Campus, Oahu Design and construction of covered grandstand, including public restrooms, concession area, ticket booth, press box, maintenance equipment area. Design Total Funding	217	UOH 105			

# ACT 1

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Ag.	APPROPRIATIONS (\$1,000's)			Total M FY 1981-82 F	Total M FY 1982-83 F	Total M Biennium O 1981-83 F
					FY M 1981-82 F	FY M 1982-83 F	Total M Biennium O 1981-83 F			
33.	Institutional Support—UOH, Manoa Modifications to Existing Facilities to Meet HOSHA and Other Code Requirements		UOH 106							
	Modifications to existing facilities to meet HOSHA and other code requirements	250								
	Design				42					
	Construction				458					
	Total Funding			AGS	500C		C			
34.	Modifications to Existing Facilities for the Physically Handicapped				255					
	Modifications to restrooms and elevators and the installation of new elevators and ramps in existing buildings to serve the handicapped in wheelchairs.									
	Design				40					
	Construction				360					
	Total Funding			AGS	400C		C			
35.	Energy Conservation Modifications				257					
	Modifications to existing facilities to conserve energy									
	Design				30					
	Construction				270					
	Total Funding			AGS	300C		C			

University of Hawaii, Hilo Instruction—UOH, Hilo	UOH 211		
36. UHH-Athletic Fields and Tennis Courts, Phase II. Design and construction of outdoor playfields and tennis courts to provide adequate facilities for physical education, intramurals, athletics and recreation programs.	329		
Design		90	90
Construction		1,250	1,250
Total Funding		1,340C	1,340C
Institutional Support—UOH, Hilo	UOH 216		
37. Access for the Handicapped, Phase II, University of Hawaii at Hilo Design and construction to complete the corrective work required to provide an accessible campus for the physically handicapped and safety and health requirements as necessary.	438		
Construction		140	140
Total Funding		140C	140C
Honolulu Community College Institutional Support—Honolulu CC	UOH 305		
38. Honolulu Community Colleges— Vocational Tech Facilities, Incl Site Development. Design, construction, furniture and equipment to provide shops, classrooms, specialized facilities and offices for auto mechanics.	A15		
Design		135	135
Total Funding		135C	135C

# ACT 1

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agg.	APPROPRIATIONS (\$1,000's)				
					FY 1981-82	M F	FY 1982-83	M O	Total M Biennium 0 1981-83 F
39.	Honolulu Community College—Site Development	A74							
	Design and construction for demolition of existing facilities, clearing, grading, improvements to drainage and utilities, sewer lines, street lights and preparation of site. (Site development Kokea Street, Phase III)								
	Design				36			36	
	Construction					380		380	
	Total Funding			AGS		416C		C	416C
40.	Kapiolani Community College Institutional Support—Kapiolani CC				UOH 315				
	Kapiolani CC—New Campus Development at Fort Ruger	B04							
	Design, construction, furniture and equipment for development of facilities.								
	Design					664		664	
	Construction					1,387		1,387	
	Total Funding			AGS		2,051C		C	2,051C
41.	Leeward Community College Instruction—Leeward Community College				UOH 321				
	Leeward Comm. Coll Renovations of Existing Facilities.								
	Conversion, modifications, renovations, and improvements to existing facilities.								
	Construction								
	Total Funding			AGS		135		C	135C

**ACT 1**

42.	Institutional Support — Leeward CC Leeward Community College Renovation of Campus Center Snack Shop and Kitchen	HCF001	UOH 325
	Design, construction, furniture and equipment to expand the Campus Center Snack Shop and Kitchen for the Food Service Program.		
	Design	8	
	Construction	55	
	Equipment	8	
	Total Funding	71C	C
43.	Leeward Community College Renovation of Campus Center Gourmet Dining Room	HCF002	
	Design, construction, furniture and equipment to expand the Campus Center Gourmet Dining Room for the Food Service Program.		
	Design	7	
	Construction	44	
	Equipment	2	
	Total Funding	53C	C
	Maui Community College Institutional Support — Maui Community College	UOH 505	
44.	Maui CC — Site Development Clearing, grading and landscaping of undeveloped lands, including additional parking, roadways, lighting, and utilities.	M75	
	Design	40	
	Construction	28	
	Total Funding	68C	C

## ACT 1

## H. CULTURE AND RECREATION CULTURAL ACTIVITIES

CULTURAL ACTIVITIES

LNR 801

- F15**

  1. Royal Mausoleum — Nuuanu Petroglyphs  
Acquisition of additional land for public access  
plans and research site  
Including interpretation of historic and archaeo-  
logic values in Nuuanu Valley.  
Renovation of chapel and other improvements at  
Royal Mausoleum State Monument.

## 2. Kamo Point Archaeological Complex H18

Land acquisition by direct purchase or condemnation, planning, archaeological research, stabilization, restoration and interpretation; development and protection of TMK 7-7-4, parcels 12, 51 and 52 of approximately 12.5 acres at Kamo Point, South Kona, Hawaii. Provided that \$5.4 million hereby appropriated may be matched by federal funds as available and shall be used in conjunction with this appropriation.

Plans

Total Funding

Plans	50	50C
Total Funding	LNR	C

## RECREATIONAL ACTIVITIES

Parks Recreation

## 3. Iao Valley State Park F32

Incremental development per master plan, relocation of existing restroom and improvement of water and sewage systems.

Design

Construction

Total Funding

Design	20	20C
Construction	200	C
Total Funding	LNR	220C

## 4. Kahana Valley State Park F57

Incremental development including historic restoration, water features, and other recreation and cultural and heritage opportunities per master plan.

Plans

Design

Construction

Total Funding

Plans	25	25C
Design	250	300C
Construction	Total Funding	C

## ACT 1

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			
					FY 1981-82	M 0 F	FY 1982-83	M 0 F
5.	Hana Road State Waysides Parkway development and plantings, grading and paving of parking areas, and improvements to Kaumahina Wayside. Replace and improve water and sewage systems. Expansion of Puua Kaa for parking and new restroom.	F59						
	Construction		LNR		150	150C	C	150
	Total Funding							
6.	Sand Island State Recreation Area Incremental development of beach park, plans and construction. Federal aid is being used for this project	F70						
	Construction		LNR		500	500C	C	500
	Total Funding							
7.	Makena-Laperouse State Park Incremental acquisition of land as per conceptual plan. Protection of archaeological and biological features. Development to include interpretation of these features as well as to provide facilities for recreation opportunities. Federal aid is being used for this project.	F73						
	Construction		LNR		250	250C	C	250
	Total Funding							

8.	Rainbow Bay	F83	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 first phase development of land area bordering Aiea Bay. Maximum of 40 acres available. One parcel to be acquired. Federal aid is being used for this project	Plans	100 100C	C	100 100C
	Total Funding		Ocean-Based Recreation	LNR	100 100C		
9.	Keehi Boat Harbor, Oahu	O10	Design and construction of additional berthing facilities, utilities, mooring buoys and other improvements.	Design	50	50	
	Construction			Construction	370	370	
	Total Funding			Total Funding	420D	420D	
10.	Ala Wai Boat Harbor Improvements, Oahu	O20	Lighting system modifications and other improvements.	Design	20	20	
	Construction			Construction	20D	20D	
	Total Funding			Total Funding			
11.	Heiai-Kea Boat Harbor Oahu	O30	Paving of mole area and other improvements	Design	78	78	
	Construction			Construction	78D	78D	
	Total Funding			Total Funding			
12.	Haleiwa Boat Harbor Oahu	O40	Paving, lighting & other improvements	Design	25	25	
	Construction			Construction	170	170	
	Total Funding			Total Funding	195D	195D	

## ACT 1

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Avg.	APPROPRIATIONS (\$1,000's)				
					FY 1981-82 M	FY 1982-83 M	Total M	Biennium O	1981-83 F
13.	Statewide Improvements to Boating Fac. Improvements to existing boat harbors and boat refuge areas.	OIS							
	Design								
	Construction								
	Total Funding								
14.	Lahaina Boat Harbor, Maui	O3M							
	Misc. improvements to the existing Lahaina Boat Harbor including marginal wharf, electrical facilities, office, landscaping and other improvements.								
	Design								
	Construction								
	Total Funding								
15.	Ice and Cold Storage Facilities at Various Boat Harbors, Statewide	O4S							
	Construction of ice and cold storage facilities at Waianae, Haleiwa, and Port Allen or Nawiliwili Boat Harbors. This project qualifies for federal reimbursement.								
	Design								
	Construction								
	Total Funding								
16.	Improvements to Maalea Boat Harbor, Maui	13M							
	Paving, drainage and other improvements to backup area.								
	Design								
	Construction								
	Total Funding								

17.	Improvements at Existing Kawaihae Boat Harbor, Hawaii	15H							
	Relocation of electrical lines, lighting system, and other improvements.								
	Design								
	Construction								
	Total Funding								
18.	Spectator Events & Shows — Aloha Stadium Replacement of Stadium Concourse	AGS 889							
	Flooring								
	Replacement of structural metal decking and concrete decking	S1							
	Design								
	Construction								
	Total Funding								
19.	GENERAL ADMIN FOR CULTURE & RECREATION	LNR 809							
	SCORP (State Comprehensive Outdoor Recreation Plan)	F05							
	Updating of inventory demand and action program for outdoor recreation to qualify for continuous receipt of federal grants for acquisition and development of recreational areas. This project receives federal aid financing/reimbursement.								
	Plans								
	Total Funding								
	LNR	80							
	LNR	40A							
		40N							
			A						
			N						

# ACT 1

Item No.	Program and Capital Project	Cap. Proj.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)								
					FY 1981-82 M	FY 1982-83 M	Total M	Biennium O	1981-83 F				
<b>I. PUBLIC SAFETY SAFETY FROM CRIMINAL ACTIONS</b>													
Confinement													
	Juvenile Correctional Facilities	SOC401											
1.	Restore 15,000 Sq Ft Under Roof of Maunawili Cottage to Convert Usage Back to Residency.	CD7910											
	Relocate non-residential activities and restore all rooms, dormitories and all other areas to original use status as a residency unit for juvenile offenders. Also renovate and refurbish existing kitchen facilities to meet standards. Unexpended balances from item I-5, Act 300, SLH 1980 may be used for this project.												
	Construction	AGS											
	Equipment												
	Total Funding												
2.	To Develop Plans for the Best Utilization of Land at HYCF for a New Physical Plant	CD7920											
	Develop plans and programs for long term utilization of available land for a juvenile correctional services center at the HYCF, Kailua, Oahu.												
	Plans												
	Design												
	Total Funding												
3.	Temporary Classroom Units for Olomana School, HYCF.	CD7923											
	To erect and equip three temporary classroom structures of similar design to existing DOE units to house staff and wards of Olomana School at												

HYCF complex, to be fenced.						
Design	20					
Construction	165					
Equipment	10					
<b>Total Funding</b>	<b>195C</b>					
Kulani Correctional Facility	SOC403					
Plan/ Design & Build a 3 Million Gallon Water Reservoir at Kulani Correctional Facility	CD7918					
To build a 3 million gallon reservoir on a three acre parcel of pasture land at Kulani Correctional Facility to supplement the existing water storage facilities						
Plans	5					
Design	25					
Construction	150					
Equipment	10					
<b>Total Funding</b>	<b>190C</b>					
4. Plan, Design & Build a 2,500 Sq Ft Extension to admin Bldg at Kulani Corr Facility	CD7919					
To build a new wing to the admin bldg with 7 cells, a multipurpose area, an interview room, staff station and office. Construction to be of CMU block, grouted with steel bar reinforcement, steel plate ceilings for each cell. Exteriors to be faced with native rock to blend with other structures on grounds.						
Plans	2					
Design	3					
Construction	125					
Equipment	3					
<b>Total Funding</b>	<b>133C</b>					

# ACT 1

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)				
					FY 1981-82	M 0	FY 1982-83	M 0	Total M 1981-83
	Oahu Community Correctional Center	SOC407							
6.	To Expand Scope of OCCC Renovation Project	CD7913							
	Expand the scope of Oahu CCC renovation project to include renovation of approx 8000 sq ft on the second floor of the existing admin building for use as inmate housing. Unexpended balances from item I-10, Act 300, SLH 1980 may be used for this project.								
	Construction		AGS		1,150			C	1,150
	Total Funding				1,150			C	1,150C
	General Support — Criminal Action	SOC493							
	General Adm—Confinement								
7.	Plan and Design for Additional Facilities for Neighbor Island ISC/CCCS.	CD7915							
	To plan and design a prototype structure for three neighbor island ISC / CCCS to be utilized by three service delivery agencies: intake service centers, Hawaii Paroling Authority and Corrections Division. The structure will provide housing and programming services to offenders.								
	Construction		AGS		3,600			C	3,600
	Equipment				150			C	150
	Total Funding				3,750C			C	3,750C
8.	Oahu Medium Security Correctional Facility	CD7921							
	For the acquisition of all or that portion of tax map key 9-9-10:28 and portions of tax map key 9-10:10 and 9-9-10:26 and the planning and con-								

struction of a medium security correctional facility  
 Land Acquisition      3,579  
 Total Funding      3,579C

facility	3,579
Land Acquisition	C
Total Funding	3,579C

#### SAFETY FROM PHYSICAL DISASTERS

DEF110

9. Amelioration of Physical Disasters      A29
- Additional Improvements at the Departmental Administration Building and 100-Man Armory
- Planning and construction of additional improvements at the departmental administration building and 100-man armory for providing facilities for the joint staff of the adjutant general's office, the recruiting and retention office, and the Hawaii Area Command to include administrative space, parking, landscaping, fencing, and other improvements.
- |               |     |
|---------------|-----|
| Design        | 85  |
| Total Funding | 85C |
10. Additional Improvements to National Guard Armories      A31
- 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
- |               |     |
|---------------|-----|
| Design        | 15  |
| Construction  | 234 |
| Total Funding | 69C |

facility	15
Land Acquisition	C
Total Funding	180N

facility	15
Land Acquisition	C
Total Funding	180N

## ACT 1

## K. GOVERNMENT-WIDE SUPPORT EXEC DIRECTN, COORD. & POLICY

- |  |   |
|--|---|
| <b>K. GOVERNMENT-WIDE SUPPORT</b><br>EXEC DIRECTN, COORD. & POLICY<br>DEVELOPMENT<br>Office of the Governor<br>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). |
| 1. Design  | Total Funding   |

# ACT 1

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. A/EY.	APPROPRIATIONS (\$1,000's)							
					FY 1981-82 M	FY 1982-83 M	Total M	Total M Biennium 0 1981-83 F				
<b>GENERAL SERVICES</b>												
Property Management												
Public Lands Management												
2.	Seawall Improvement, Waikiki	E58	LNR 101									
	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				30		30					
	Design				50		50					
	Construction				250		250					
	Total Funding		LNR		330C	C						
3.	Sand Island Industrial Subdivision	E59										
	Planning, design and construction of roadways, sewer system on-site and off-site water and drainage facilities and related improvements to develop state lands on Sand Island											
	Plans						70					
	Total Funding		LNR		70C	C		70C				
Facilities Construction and Maintenance												
Construction												
4.	Vineyard Street Garage, Phase II	A18	AGS 221									
	Design and construction Phase II of the Vineyard Street Garage.											
	Design						102					
	Construction						3,444					
	Total Funding		AGS		3,546D	D		3,546D				

5.	Kaunakakai Civic Center Land acquisition, design and construction of a new state office building to accommodate various agencies.	A39						
	Design	AGS	19	C	19	I9C		
	Total Funding		19C					
6.	State Office Bldg. No. 2, Phase II Design & construct Phase II of a new state office building in the Millani Mall block to include demolition, landscaping and continuation of Phase I.	A40						
	Design	AGS	66	C	66	66C		
	Total Funding		66C					
7.	Lihue SOB, Addition, Renovation and Parking — Additional to the third floor to provide additional office space and renovation of the existing offices in the building. This project also includes a parking lot.	A46						
	Design	AGS	12	C	1,617	1,617		
	Construction				5	5		
	Equipment							
	Total Funding		1,634C					
8.	Kamamalu Bldg, Renovation To replace air conditioning equipment, lighting, and other office renovations	B04						
	Construction	AGS	199	C	199	199C		
	Total Funding		199C					

## ACT 1

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			
					FY M 1981-82 F	FY M 1982-83 F	Total M 1981-83 F	Biennium M 1981-83 F
9.	Advance Planning, Statewide	B27						
	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							
	Total Funding				AGS	110 110C	C	110 110C
					AGS 221			
10.	Remodeling State Office Buildings	B28						
	Remodeling and upgrading state office buildings, statewide. This project will supplement funds from Act 214/79, Item K13 and Act 300/80. Item K13							
	Design					20	20	
	Construction					80	80	
	Total Funding				AGS	100C	C	100C
					AGS 221			
11.	State Capitol Improvements and Renovations	B41						
	Improvements to the building systems including roof, air conditioning, office renovations, pool improvements, security gates and other facilities improvements and renovations for the state capitol.							
	Construction							
	Total Funding				AGS	535 535C	C	535 535C
12.	Landscape Improvements Mauka Section, State Capital Complex	B54						

Design and construction of landscaping for Liliokalani building and Kinau Hale			
Total Funding			
Design	36	36C	
Total Funding	C		
13.	Kalanimoku Building A/C Improvement Design and construction of modifications to the Kalanimoku building air conditioning system for increased efficiency and to meet additional load requirements	B57	
Design	106	106C	
Total Funding	AGS		

## ACT 1

SECTION 93. Sessions Laws of Hawaii 1980, section 7, item E-12A, amending Act 214, Session Laws of Hawaii 1979, section 120, is amended to read as follows: "Kula Hospital — Modernization [and], Renovation [to Correct] and Correction of Code Deficiencies and New Building Addition. The proposed project will [be to eliminate all] upgrade the building by eliminating code deficiencies, modernize, and renovate the building to accommodate current usage [maximize the use of the existence of the five story structure]. The project will also include a new building addition. It is estimated that the proposed project will cost \$8,106,380. Refer to the certificate of need for further details.

	FY 79-80	FY 80-81
Construction		7,974
Equipment		50
Total funding	C	8,024C"

SECTION 94. Item E-17A, section 7, Act 300, Session Laws of Hawaii 1980, is amended to read as follows: "Waianae Comprehensive Health Center, Oahu. Planning, design, [and] construction [of], renovation or improvements to the Waianae comprehensive health center.

	FY 79-80	FY 80-81
Construction		105
Total funding	C	105C"

SECTION 95. Provided, that of the \$1,200,000 in capital improvement appropriations authorized in Part II and listed in Part IV of this Act to the Energy Development and Management Program (PED 120), \$300,000 for each fiscal year of the fiscal biennium 1981-83 shall be for the development of a deepwater cable linking all the major islands including the island of Hawaii.

## PART V. ISSUANCE OF BONDS

SECTION 96. **Governor's discretionary powers.** Where 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 in this Act, where the method of financing is designated to be the general obligation bond fund.

SECTION 97. **Airport revenue bonds.** The Department of Transportation is authorized to issue airport revenue bonds for airport capital investment projects authorized in Part II and listed in Part IV of this Act and designated to be financed by revenue bond funds or by general obligation bond fund with debt service cost to be paid from special funds, in such principal amount as shall be required to yield the amounts appropriated for such capital investments, plus, if so determined by the department and approved by the Governor, such additional amounts as may be necessary by the department to increase reserves for the airport revenue bonds and to pay the expenses of issuance of such bonds. The aforementioned airport revenue bonds shall be issued pursuant to the provisions of Part III, Chapter 39, Hawaii Revised Statutes, as the same may be amended from time to time. The principal and interest of airport revenue bonds, to the extent not paid from the proceeds of such bonds, shall be payable solely from and secured solely by the revenue from airports and related facilities under the ownership of the State or operated and managed by

the department and the aviation fuel taxes levied and paid pursuant to sections 243-4(a)(2) and 248-8, Hawaii Revised Statutes, or such parts of either thereof as the department may determine, including rents, landing fees, and other fees or charges presently or hereafter derived from or arising through the ownership, operation, and management of airports and related facilities and the furnishing and supplying of the services thereof. The expenses of the issuance of such airport revenue bonds shall to the extent not paid from the proceeds of such bonds be paid from the airport revenue fund. The Governor, in his discretion, is authorized to use the airport revenue fund to finance those projects in Part II where the method of financing is designated to be by airport revenue bond funds.

**SECTION 98. Harbor revenue bonds.** The Department of Transportation is authorized to issue harbor revenue bonds for harbor capital investment projects authorized in Part II and listed in Part IV of this Act and designated to be financed by revenue bond funds or by general obligation bond fund with debt service cost to be paid from special funds, in such principal amount as shall be required to yield the amounts appropriated for such capital investments, plus, if so determined by the department and approved by the Governor, such additional amounts as may be necessary by the department to pay interest on such revenue bonds during the construction period and for six months thereafter, to establish, maintain, or increase reserves for the harbor revenue bonds to pay the expenses of issuance of such bonds. The aforementioned harbor revenue bonds shall be issued pursuant to the provisions of Part III, Chapter 39, Hawaii Revised Statutes, as the same may be amended from time to time. The principal and interest of harbor revenue bonds, to the extent not paid from the proceeds of such bonds, shall be payable solely from and secured solely by the revenues from harbors and related facilities under the ownership of the State or operated and managed by the department, including rents, mooring, wharfage, dockage, and pilotage fees, and other fees or charges presently or hereafter derived from or arising through the ownership, operation, and management of harbor and related facilities and the furnishing and supplying of the services thereof. The expenses of the issuance of such harbor revenue bonds shall to the extent not paid from the proceeds of such bonds be paid from the harbor special fund. The Governor, in his discretion, is authorized to use the harbor revenue fund to finance those projects in Part II where the method of financing is designated to be by harbor revenue bond funds.

#### **PART VI. GRANTS-IN-AID**

**SECTION 99.** The following sums, or so much thereof as may be necessary, are appropriated out of the general revenues of the State of Hawaii for the fiscal year 1981-82 to the expending agencies designated; provided that no allotment of appropriations made in this section shall be made except in accordance with Section 108 of this Act:

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<u>Organization</u>	<u>Program I.D.</u>	<u>Expendng Agency</u>	<u>Amount</u>
<u>Economic Development</u>			
DPED — Office of Tourism — King Kalakaua 100th Anniversary Commemoration	PED 113	PED	100,000
<u>Employment</u>			
Molokai Rehabilitation Facility	SOC 802	SOC	32,131
Maui Rehabilitation Center (Prevocational Training Program)	SOC 802	SOC	12,000
<u>Health</u>			
Hemophilia Foundation of Hawaii	HTH 151	HTH	120,500
Arthritis Center of Hawaii — Arthritis Clinic and Education Services	HTH 151	HTH	90,000
Kapiolani-Children's Hospital — Hawaii Poison Center	HTH 170	HTH	84,000
Hale Ho'ola Hou	HTH 185	HTH	26,269
Hawaii Planned Parenthood — Family Planning	HTH 185	HTH	431,075
Kapiolani-Children's Hospital — Family Planning Services	HTH 185	HTH	41,772
Kapiolani-Children's Medical Center — Hawaii Family Stress Center	HTH 801	HTH	108,000
Waianae Coast Day Care Centers, Inc. — Infant Development	HTH 801	HTH	29,430
Child & Family Service — Hale Lokahi	HTH 801	HTH	15,120
Parent and Child Center of Kalihi, Inc. — Hana Like Home Visitor Program	HTH 801	HTH	70,000
Child and Family Service — Shelter fo: Abused Spouses and Children	HTH 801	HTH	52,500
The Family Crisis Shelter — Pu'uhonua	HTH 801	HTH	52,090
YWCA — The Shelter	HTH 801	HTH	65,000
Women Helping Women, Inc. — Hale Loko Maika'i Crisis Shelter for Battered Women & Their Children	HTH 801	HTH	40,000
Hilo Halfway House, Inc. — Hale Ho'u Huli	HTH 401	HTH	24,041
The House, Inc. — The House	HTH 401	HTH	20,537
Grow (Hawaii), Inc.	HTH 401	HTH	8,640

**ACT 1**

<u>Organization</u>	<u>Program I.D.</u>	<u>Expendng Agency</u>	<u>Amount</u>
Hawaii Committee on Alcoholism	HTH 401	HTH	88,012
Habilitat, Inc. — Habilitat	HTH 401	HTH	50,000
Child and Family Service — Kalihi — Palama School Project	HTH 401	HTH	20,000
Drug Addiction Services of Hawaii	HTH 401	HTH	135,542
Awareness House, Inc.	HTH 401	HTH	26,228
Big Island Council on Alcoholism — Hakalau Halfway House	HTH 401	HTH	30,000
Saint Francis Hospital — Women's Alcohol Treatment Center	HTH 401	HTH	81,047
YMCA of Honolulu — Detached Counselors Program	HTH 401	HTH	75,000
Catholic Social Service — Integrated Alcohol	HTH 401	HTH	50,000
The Salvation Army — Addiction Treatment Facility	HTH 401	HTH	372,173
Hawaii Alcoholism Foundation — Halfway House Sand Island	HTH 401	HTH	45,000
John Howard Association — Waianae Rap Center	HTH 401	HTH	86,339
Kalihi YMCA — Alternatives for Youth	HTH 401	HTH	68,000
Alcoholic Rehabilitation Services of Hawaii — Hina Mauka Residential Program	HTH 401	HTH	65,000
Lanakila Rehabilitation Center — Mental Health Program	HTH 401	HTH	25,897
Volunteer, Information and Referral Service — Suicide and Crisis Intervention Center	HTH 401	HTH	58,000
Child and Family Service — Hale O'Ulu	HTH 401	HTH	29,226
Kapiolani-Children's Medical Center — Sex Abuse Treatment Center	HTH 401	HTH	204,120
Hawaii Island YWCA — Sexual Assault Support Service	HTH 401	HTH	50,000
Catholic Social Service — Bilingual/Bicultural	HTH 401	HTH	30,000
Maui Kokua Services, Inc. — Helpline	HTH 401	HTH	10,000
Serenity House, Inc. — Serenity House	HTH 401	HTH	15,000
County of Kauai — Kauai Outreach Program	HTH 401	HTH	22,775
Society for Crippled Children and Adults of Maui County — Child Development Program	HTH 500	HTH	37,605

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<u>Organization</u>	<u>Program I.D.</u>	<u>Expendng Agency</u>	<u>Amount</u>
Variety Club School	HTH 500	HTH	90,000
Easter Seal Society of Hawaii — Infant/Child Development Service	HTH 500	HTH	128,620
Hilo Association to Help Retarded Citizens — Deaf/Blind Multi-Handicapped Program	HTH 500	HTH	35,000
Hilo Association to Help Retarded Citizens — Respite Care	HTH 501	HTH	10,800
Easter Seal Society of Hawaii, Inc. — Respite Services	HTH 501	HTH	39,960
Hilo Association to Help Retarded Citizens dba Hilo Vocational Rehabilitation Center — Vocational and Social Rehabilitation	HTH 501	HTH	82,892
Goodwill Industries of Honolulu — Title XX	HTH 501	HTH	30,552
Brantley Center — Work Activity	HTH 501	HTH	60,620
Maui Rehabilitation Center — Social Rehabilitation	HTH 501	HTH	66,551
Maui Association for Retarded Citizens — Respite Care	HTH 501	HTH	11,600
Opportunities for the Retarded — Pre-Vocational Agricultural Training Program	HTH 501	HTH	89,100
Lanakila Rehabilitation Center — Day/Work Activity Program, Honolulu and Wahiawa	HTH 501	HTH	136,273
Research Center of Hawaii — Haleiwa-Waialua Prevocational Project for Adult Developmentally Disabled	HTH 501	HTH	32,626
Hawaii Association for Retarded Citizens — Ruger Center	HTH 501	HTH	261,769
Kona Association for Retarded Citizens, dba Kona Crafts — Title XX Work Activity/Sheltered Employment	HTH 501	HTH	34,000
Kona Association for Retarded Citizens dba Kona Crafts — Pre-Vocational	HTH 501	HTH	16,354
Rehabilitation Unlimited Kauai — Day/Work Activity	HTH 501	HTH	42,893
Lanakila Rehabilitation Center — Day/Work Activity Program/Title XX	HTH 501	HTH	67,884
Saint Francis Hospital — Northern Koolau Health Education Program	HTH 908	HTH	54,000

<u>Organization</u>	<u>Program I.D.</u>	<u>Expendng Agency</u>	<u>Amount</u>
Protection and Advocacy Agency of Hawaii — Services	HTH 907	HTH	71,280
Waianae Coast Comprehensive Health Center — Emergency Room	SUB 601	HTH	35,375
<u>Social Services</u>			
Catholic Social Service — CPS/Group Service	SOC 111	SOC	20,000
Catholic Social Service — CPS/Para-Professional Program	SOC 111	SOC	19,061
Catholic Social Service — Small Group Homes Services for Older Adults	SOC 111	SOC	75,000
County of Maui/Department of Human Concerns — Maunaolu Youth Residential Shelter	SOC 111	SOC	79,522
The Salvation Army — Hilo Interim Home	SOC 111	SOC	81,750
Hale Opio Kauai, Inc.	SOC 111	SOC	50,000
Boys Club of Honolulu	SOC 111	SOC	15,000
Hawaii County Economic Opportunity Council — Transportation	GOV 860	GOV	119,238
Maui Economic Opportunity, Inc. — Transportation	GOV 860	GOV	62,000
Kauai Economic Opportunity, Inc. — Community Services Adm.	GOV 860	GOV	70,200
County of Kauai Office of Elderly Affairs — Transportation Services	GOV 602	GOV	75,000
Maui Economic Opportunity, Inc. — Chore Services	GOV 860	GOV	60,000
Kapahulu Senior Center	GOV 602	GOV	65,400
Susannah Wesley Community Center — Immigrant Services	GOV 803	GOV	38,150

Formal Education

Maui Hui Malama, Inc.	EDN 108	EDN	22,000
Palama Interchurch Council	EDN 108	EDN	62,516
Lamp	EDN 108	EDN	150,000
Hawaii Writing Project	EDN 205	EDN	40,000
Pacific and Asian Affairs Council	EDN 207	EDN	43,200
Liliha Library After School Program	EDN 303	EDN	25,000

## **ACT 1**

<u>Organization</u>	<u>Program I.D.</u>	<u>Expendng Agency</u>	<u>Amount</u>
<b><u>Culture and Recreation</u></b>			
Bernice P. Bishop Museum	AGS 881	DAGS	250,000
Friends of Waipahu Cultural Garden Park	AGS 881	DAGS	48,600
Hawaii Council on Portuguese Heritage	AGS 881	DAGS	20,000
Hawaii Multi-Cultural Center	AGS 881	DAGS	21,600
Hawaii Performing Arts Company	AGS 881	DAGS	10,800
Hawaii Youth Symphony Association	AGS 881	DAGS	25,000
Hawaiian Islands Public Radio	AGS 881	DAGS	54,000
Home Na'auao O Kau	AGS 881	DAGS	27,000
Honolulu Symphony Society	AGS 881	DAGS	200,000
Honolulu Theater for Youth	AGS 881	DAGS	90,000
Kalihi-Palama Culture and Arts	AGS 881	DAGS	16,200
Waianae Coast Culture and Arts	AGS 881	DAGS	45,000
Fetu Ao Organization	AGS 881	DAGS	10,000
Hawaii Canoe Racing Association	AGS 881	DAGS	5,000

### Public Safety

John Howard Association of Hawaii Liliha House II	SOC 404	SOC	78,000
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**SECTION 100.** The designated expending agency authorized in each item in this part is authorized to delegate to other state agencies the expenditure of funds for such items when it is determined by such agency that it is more advantageous to do so.

**SECTION 101.** Provided that the sum of \$90,000 appropriated to the Variety Club as a grant-in-aid shall be expended by the Department of Health on a contractual basis.

**SECTION 102.** In the event that other sources of state funds become available for those grants-in-aid provided for in this Act, the general fund appropriation shall be reduced to the extent of the excess.

**SECTION 103.** Provided that the sum of \$100,000 appropriated to the Tourism Program (PED 113), shall be expended for a promotional tour for the King Kalakaua 100th anniversary commemoration and in encouragement of visitor growth to Hawaii.

## **PART VIA. GENERAL IMPROVEMENT PROJECTS**

**SECTION 104.** The following sums or so much thereof as shall be sufficient to finance the projects herein contained, are hereby appropriated for fiscal year 1981-82 to be expended by the department of accounting and general services, unless otherwise specified in the subsection, out of moneys in the treasury received from general obligation bond funds.

### **I. COUNTY OF HAWAII**

#### **A. DEPARTMENT OF AGRICULTURE**

(To be expended by the Department of Agriculture)

- |   |         |
|---|---------|
| 1. Agricultural Facilities  | 250,000 |
| Plans, designs and construction of agriculture consolidation, distribution and growing facilities including land acquisition, if necessary, site improvement and other necessary appurtenances. |         |

#### **C. DEPARTMENT OF LAND AND NATURAL RESOURCES**

(To be expended by the Department of Land and Natural Resources)

- |   |         |
|---|---------|
| 1. Hulihee Palace   | 300,000 |
| Plans, construction, and development of Hulihee Palace Phase IV in Kailua-Kona, Hawaii. |         |

### **WW. COUNTY OF HAWAII**

(To be expended by the Department of Water Supply)

- |   |           |
|---|-----------|
| 1. Water System Improvements and Developments   | 1,500,000 |
| Land acquisition, plans, designs and construction for incremental development of water systems, including source developments, pipelines, booster pump stations, storage facilities, improvements to existing water systems and necessary appurtenances for the following projects: |           |
| a. Keaau-Pahoia Trunk Line, Phase III   |           |
| b. Wailea-Hakalau Water System, Phase II  |           |
| c. Kukaiau-Ookala Water System  |           |
| d. South Kona Water System  |           |
| e. Panaewa Well   |           |
| f. Haina Well   |           |
| g. Papaaloa Water System  |           |
| h. South Kohala Source Development  |           |
| i. Olaa Flume-Middle Flume Extension  |           |
| j. Waimea Treatment Plan, Phase III   |           |
| k. Kihalani Water System Development  |           |
| l. Pohakea Water System Improvement   |           |
| m. Piihonua Well  |           |
| n. North Kohala Water System Development  |           |
| o. Pepeekeo-Papaikou Transmission   |           |
| p. Aquaculture Park-Water Resources Development including water development, plans, designs and construction (to be expended by Department of Land and Natural Resources).  |           |
| 2. Water Resources Development  | 1,800,000 |
| Plans, land acquisition, design construction, and equipment for water resource development for the county of Hawaii.  |           |

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### **II. COUNTY OF MAUI**

#### **C. DEPARTMENT OF LAND AND NATURAL RESOURCES**

(To be expended by the Department of Land and Natural Resources)

- |  |           |
|--|-----------|
| 1. Makena-La Perouse State Park  | 1,000,000 |
| Incremental acquisition of land as per conceptual plan, protection of archaeological and biological features. Development to include interpretation of these features as well as to provide facilities for recreation opportunities. |           |

#### **D. DEPARTMENT OF TRANSPORTATION**

(To be expended by the Department of Transportation)

- |   |         |
|---|---------|
| 1. Maalaea Ramp Loading Dock                                    | 55,000  |
| Loading dock on right side of existing ramp.                    |         |
| 2. Pukalani/Haleakala Highway Intersection                      | 150,000 |
| Improvements to Pukalani Street/Haleakala Highway intersection. |         |

#### **E. DEPARTMENT OF EDUCATION**

- |   |         |
|---|---------|
| 1. Hana Community School .....  | 200,000 |
| Supplemental to existing appropriation for construction of the Hana Community School library. |         |
| 2. Kahului Library .....  | 54,000  |
| To control temperature and humidity in the Hawaiian Room.                                     |         |
| 3. Kamehameha III School .....  | 25,000  |
| Air conditioning of school library.   |         |
| 4. Kamehameha III School .....  | 250,000 |
| Electric ceiling fans for classrooms to improve temperature and ventilation.                  |         |
| 5. Lanai High and Elementary School .....   | 200,000 |
| Supplemental to existing appropriation for renovation of auto and metal shop.                 |         |
| 6. Puakalani Elementary School .....  | 31,000  |
| Supplemental to existing appropriation for construction of playground.                        |         |

### **V. COUNTY OF MAUI**

(To be expended by the County of Maui)

- |  |         |
|--|---------|
| 1. Kahului Beach Road and Kanaloa Avenue Intersection .....  | 120,000 |
| Intersection improvement.  |         |
| 2. Community Performing Arts Center .....  | 100,000 |
| Grant-in-aid County of Maui.   |         |
| 3. Hana Community Center Renovation .....  | 40,000  |
| The Old Hana School property has been assigned by executive order to Maui County for use as a community center. Money is needed to renovate the old school into a much needed center. Painting and repair. |         |
| 4. Kihei Community Center Library .....  | 25,000  |
| Renovation of building located at Old Kihei Community Elementary School grounds for conversion of former classrooms into library facilities. Present building and land donated by Maui County.             |         |
| 5. Kula Community Center .....   | 150,000 |
| Grant-in-aid County of Maui.   |         |

**VW. COUNTY OF MAUI**

(To be expended by the Board of Water Supply)

1. Water Resources Development 1,400,000  
 Plans, land acquisition, design, construction, and equipment for water resource development for the county of Maui.

**III. CITY AND COUNTY OF HONOLULU****C. DEPARTMENT OF LAND AND NATURAL RESOURCES**

(To be expended by the Department of Land and Natural Resources)

1. Wailupe Stream Repair and Stabilization 275,000  
 To repair and stabilize the Wailupe Stream from Kalanianaole Highway to Ani Street bridge.
2. Kakaako Waterfront Park 700,000  
 Plans and construction for the development of waterfront park and recreational facilities on the Fort Armstrong-Kewalo Peninsula.
3. Sand Island State Recreation Park, Oahu 50,000  
 Incremental development of park plans, design and construction.
4. Plans and design for an Aquaculture Park on the Leeward Oahu Coast 25,000  
 To plan and design the physical facilities for the development of an aquaculture park on the Leeward Oahu coast.
5. Pokai Bay Beach Park Hawaiian Cultural and Recreational Facilities and Programs 50,000  
 Plans and engineering studies to develop part of Pokai Bay Beach Park into facilities and programs directed at traditional Hawaiian cultural and recreational activities.
6. Waimanalo Bay State Park, Waimanalo, Oahu 100,000  
 Improvements and expansion of the Waimanalo Bay State Park.
7. Waianae Historic District Preservation Plan 85,000  
 Implementation  
 Preservation and restoration of significant historical sites on the Leeward Coast of Oahu.
8. Hawaiian Railway Society Restoration Project 25,000  
 Grant-in-aid for continuing general support for capital improvements to restore railway line from Waipahu, Oahu to Leeward Coast of Oahu.
9. St. Augustine School Property 5,700,000  
 Acquisition of St. Augustine School buildings and land in Waikiki and plans, design, construction and equipment for improvements and renovations to provide for a multi-service center in Waikiki.
10. Malaekahana State Park 2,000,000  
 Incremental acquisition of land as per conceptual plan for Malaekahana State Park.
11. Rainbow Bay State Park 1,000,000  
 Land acquisition for development of Rainbow Bay recreational area and park at Aiea Bay, Pearl Harbor, Oahu. Supplement prior appropriations.
12. Iolani Palace Grounds • 500,000  
 Plans, construction, and renovation to the bandstand, palace grounds fencing, and concrete wall improvements.

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### **D. DEPARTMENT OF TRANSPORTATION**

(To be expended by the Department of Transportation)

1.	Safety Improvements at Likelike Highway, Oahu Construction of safety improvements at the intersection of Alu Street and Like-like Highway.	60,000
2.	Safety Improvements at Likelike Highway, Oahu Installation of chain link fence on Likelike Highway from School Street to vicinity of Bishop Museum.	25,000
3.	Likelike Highway, Energy Efficient Street Lighting, Oahu Replace existing mercury street lights with high pressure sodium lights from Kula-Kolea Street to Valley View Drive.	8,000
4.	Likelike Highway, Traffic Lights at Wilson Street, Oahu Installation of traffic light at Wilson Street-Likelike Highway intersection.	20,000
5.	Likelike Highway, Oahu Plans and construction for an additional lane or road on or near Nalanieha Street at Likelike Highway.	18,000
6.	Farrington Highway, Waipio Access Road and Kahualii Street, Waipahu Plans and construction for improvements to the triangular area fronting Waipahu High School.	30,000
7.	Farrington Highway Safety Improvements, Oahu Installation of traffic safety devices, improvement of medial crossing area and related safety developments for the Farrington Highway Junction with the West Beach Oahu Access Road, Kahe Point side of Honokai Hale, Oahu.	10,000
8.	Kamehameha Highway Storm Drain at Kahuku High School Construction of storm drain at entrance to Kahuku High School.	68,500
9.	Asphalt Pavement Shoulder along Whitmore Avenue, Wahiawa.	46,500
10.	Likelike Highway Traffic Signals at Anoi Road Traffic signals at Anoi Road and Likelike Highway.	100,000
11.	Dam Crossing at Wahiawa To replace Thot bridge plans by Department of Land and Natural Resources.	50,000
12.	Kunia Road Improvements Installation of a traffic signal at the intersection of Kunia Road and Kunia Drive.	95,000

### **E. DEPARTMENT OF EDUCATION**

1.	Aiea High School The design and installation of air conditioning system for Aiea High School library.	105,000
2.	Aiea High School Installation of "overhead" ceiling fans in the Aiea High School cafeteria, Oahu.	27,000
3.	Aina Haina Elementary School Repair leaks in cafeteria roof.	40,000
4.	Aliamanu Elementary School Plans and construction for a library/media building at Aliamanu Elementary School, Oahu.	65,000

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5.	Aliamanu Elementary School Plans and construction for visitor/faculty parking lot and school bus loading zone at Aliamanu Elementary School, Oahu.	10,000
6.	Aliiolani Elementary School, Oahu Plans for the expansion of the cafeteria to provide a stage. The sum to be expended by the Department of Accounting and General Services.	50,000
7.	Anuenue Elementary School, Oahu Plans and installation of protective screening and louvers to prevent vandalism. The sum to be expended by the Department of Accounting and General Services.	140,000
8.	Benjamin Parker Elementary School General education purposes.	5,000
9.	Castle High School Multi-purpose gymnasium.	230,000
10.	Castle High School General education purposes.	5,000
11.	Castle High School Construction of the Castle High School Agricultural Shop building.	250,000
12.	Castle High School Football Field Lights. Additional appropriations for replacement of Castle High School football field lights.	120,000
13.	Enchanted Lake Elementary School, Oahu Design for a sprinkler system.	10,000
14.	Farrington High School Install heavy gauge security screens over windows and transoms of buildings E, R, G, F, Q and T.	30,000
15.	Farrington High School Improve existing facilities.	20,000
16.	Farrington High School Plan and construct greenhouse.	20,000
17.	Hahaione School Painting and repairing of Hahaione School.	30,000
18.	Helemano Elementary School, Oahu Design and construction of chain link fence.	35,000
19.	Iliahi Elementary School, Oahu Construction of chain link fence.	8,000
20.	Kaewai Elementary School, Oahu Improving school grounds. Move existing chain link fence parallel to Kalihi Recreation Center Playground; building retaining wall; filling in soil; relocating fence on wall.	30,000
21.	Kahala Elementary School Repair and maintenance of existing facilities including replacing jalousies and sliding doors in classrooms.	75,000
22.	Kahuku High School Classrooms for shop facilities.	58,000
23.	Kailua High School General education purposes.	5,000
24.	Kaimuki High School Renovation of old music building.	100,000

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25.	Kaimuki Intermediate School Design and construction of gym complex.	100,000
26.	Kaimuki Intermediate School Repair and maintenance to existing facilities.	40,000
27.	Kaiser High School Planning and construction for a Language Arts building at Kaiser High School.	165,000
28.	Kaiser High School Install laboratory in biology classroom, A-203, at Kaiser High School.	50,000
29.	Kaiser High School Completion of stadium to include bleachers with women's restrooms, storage area, basket lockers, office space and security fence with gates.	170,000
30.	Kaiser High School Put security screens over wooden louvers on all first floor rooms and administration building at Kaiser High School.	100,000
31.	Kalaheo High School, Oahu Plans and construction of athletic facilities and ground improvements.	100,000
32.	Kalakaua Intermediate School Install security screen over jalousies — classrooms, Administration Building, and Public Address System room.	1,000
33.	Kalakaua Intermediate School Resurface cracked walkways; Portables 1 to 5.	3,000
34.	Kalakaua Intermediate School Install removable 4" pipe barriers between front campus (mauka and makai) and side of Administration Building.	10,000
35.	Kalani High School Kalani High School roof repairs of leaks and removal of asbestos.	40,000
36.	Kalani High School Replace old and broken equipment.	10,000
37.	Kalihi Elementary School Renovate surplus classroom into art and kiln room.	10,000
38.	Kalihi Elementary School, Oahu Improve existing facilities — install security screen in library, cafeteria, administration building and building B, ground floor and second floor, and building A, rooms 13 to 18.	100,000
39.	Kalihi-uka Elementary School, Oahu Expand library into adjacent classroom and renovate library including carpeting and an enclosed kiln room. Present library's substandard size of 1,300 sq. ft.	50,000
40.	Kalihi-uka School Complete installation of security screens for transoms on Buildings A and B.	10,000
41.	Kalihi-waena Elementary School, Oahu Install security screens on first floors of Buildings A, B, C, D and Administration Conference Room.	70,000
42.	Kamiloiki School Planning for type I and special classroom buildings at Kamiloiki School.	50,000
43.	Kamiloiki School Construction of concrete slab adjacent to Building A, abutting rooms 101 to 104, to correct a dust problem which has become a health hazard.	10,000

44.	Kaneohe Elementary School General Education purposes.	5,000
45.	Kapalama Elementary School Enclose Kindergarten patio, Building D.	100,000
46.	Kapunahala Elementary School General education purposes.	5,000
47.	Keolu Elementary School, Oahu Repair and maintenance.	10,000
48.	King Intermediate School General education purposes.	5,000
49.	Kuhio School Design and construction for paving portion of Kuhio School parking lot.	20,000
50.	Kuhio School Design and construction of classroom partitions.	48,000
51.	Kuhio School Funds for general maintenance and repairs.	22,000
52.	Laie Elementary School, Oahu Design for classrooms.	30,000
53.	Leilehua High School Multi-purpose Theater Auditorium.	65,000
54.	Lincoln Elementary School Design, renovation or construction of various facilities.	200,000
55.	Lunalilo School Funds for general maintenance and repairs.	25,000
56.	Maemae Elementary School New facilities.	20,000
57.	Manoa School Plans and construction to enlarge driveway and parking lot leading to administration building.	25,000
58.	Maunawili Elementary School General Education purposes.	5,000
59.	Mililani High School Plans and construction for stadium locker room facilities and restrooms.	25,000
60.	Mililani-waena Elementary School Plans and construction for a chain link fence along Kipapa Drive.	6,000
61.	Moanalua Elementary School Relocate a drainage ditch in the playground area at Moanalua Elementary School, Oahu.	120,000
62.	Moanalua/Salt Lake Community Library Site selection of future site for Moanalua/Salt Lake Community Library.	56,000
63.	Nanaikapono Elementary School To improve the existing underpowered electrical system to insure adequate power for electrical systems in the library and administration building.	15,000
64.	Nanaikapono Elementary School Building G 11-12, D 13-20, A 29-32, and B 2-47. Corrective measures on excessive noise problems.	25,000
65.	Nanakuli High and Intermediate School Air condition the library.	15,000

## **ACT 1**

66.	Niu Valley Intermediate School Renovation, expansion and air conditioning to the school library.	120,000
67.	Noelani Elementary School Plans and construction of chain link fence to complete existing fence.	10,000
68.	Nuuanu Elementary School Design and construct covered gymnasium.	7,000
69.	Olomana School General education purposes.	5,000
70.	Palolo Elementary School Plans and installation of security screens for classrooms and cafeteria to prevent vandalism.	70,000
71.	Pauoa Elementary School Study on traffic conditions at Pauoa School.	30,000
72.	Pauoa Elementary School Planning and construction of additional access to parking lot to allow one-way traffic pattern for entrance and exit to school grounds.	100,000
73.	Pearl City High School Construction of varsity locker/shower and 5,000 seat concrete bleachers including ticket booth, broadcast booth, movie platform, toilets, lights, sprinkler system, fencing, ground and site improvements.	390,000
74.	Pearl Harbor Kai Elementary School Plans and construction of softball field.	15,000
75.	Pearl Ridge Elementary School Design and construction of new library.	35,000
76.	Pope Elementary School Repair and maintenance.	10,000
77.	Puohala Elementary School General education purposes.	5,000
78.	Queen Liliuokalani Elementary School Noise control and abatement.	205,000
79.	Roosevelt High School Plans and construction for the renovation of building A at Roosevelt High School.	400,000
80.	Salt Lake Elementary School Plans for and installation of carpets in rooms C-1, E-1, and F-1 at Salt Lake Elementary School.	15,000
81.	Stevenson Intermediate School Construction and renovation of PE classrooms and lockers.	60,000
82.	Stevenson Intermediate School Change classroom windows to louvers.	100,000
83.	Stevenson Intermediate School Construction and renovation of library in building A.	150,000
84.	Stevenson Intermediate School School band classrooms.	90,000
85.	Sunset Beach Elementary School Double portable building for multi-purpose use.	34,000
86.	Waialua High School Design and construction of renovation to science classrooms.	167,000

## **ACT 1**

87. Waialua High School Design and construction of shed cover for auto shop.	10,000
88. Waialua High School Plans and construction for storage shed.	8,000
89. Waianae High School Plans, design, construction and equipment for community/school auditorium.	140,000
90. Waiau II Elementary School Design and construction of new serving kitchen and dining room.	150,000
91. Waiau II Elementary School Design and construction of new library.	35,000
92. Wailupe Valley School Footpath connecting school and City and County playground at Wailupe Valley School.	5,000
93. Waimalu Elementary School Construction — renovation and expansion of the library.	30,000
94. Waimanalo Elementary and Intermediate School Repair and maintenance.	20,000
95. Washington Intermediate School Funds for general maintenance and improvements.	23,000
96. Washington Intermediate School Funds for painting of school.	90,000
97. Washington Intermediate School Funds for lighting of athletic field.	4,000
98. Wilson Elementary School Replace old equipment.	5,000
99. Wilson Elementary School Repair and renovation of existing facilities.	45,000

## **F. UNIVERSITY OF HAWAII**

1. Leeward Community College, Oahu, Campus Lighting Improvements Installation of additional lights on the Leeward Community College Campus.	19,000
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## **H. DEPARTMENT OF HEALTH**

1. Leahi Hospital, Oahu Upgrade boiler room to meet standards and replace smokestack.	195,000
2. Waianae Comprehensive Health Center Improvements To construct a covered walkway between the two existing major buildings, enlarge patient treatment area, develop area to replace present patient waiting room and related improvements.	36,000
3. Kapiolani Children's Medical Center, Oahu Grant-in-Aid — Equipment.	200,000

## **ACT 1**

### **K. DEPARTMENT OF SOCIAL SERVICES AND HOUSING**

(To be expended by the Department of Social Services and Housing)

1.	Paoakalani Housing Project Funds for installation of security system.	50,000
2.	Makua Alii Housing Project Funds for installation of security system.	50,000
3.	Kalakaua Housing Project Funds to complete master plan for new project.	100,000
4.	Kalihi Valley Homes, Oahu Install hand and guard rails along the common walkway for the hillside apartments.	15,000
5.	Hauiki Project, Oahu Installation of additional cabinets, electrical fixtures, floor tiles and plumbing fixture alterations.	10,000
6.	Improvements to Mayor Wright Homes, Oahu Plans and construction to develop children's recreation areas at Mayor Wright Homes, Oahu.	55,000
7.	Improvements to Kamehameha Homes, Oahu Plans and construction for the completion of fencing at Kamehameha Homes, Oahu.	45,000
8.	Improvements to Kaahumanu Homes, Oahu Plans and construction for the completion of fencing at Kaahumanu Homes, Oahu.	92,000
9.	Kaneohe Elderly Housing Project, Oahu Funds to offset on-site construction or financial costs.	150,000

### **M. DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES**

1.	Moiliili Community Center Funds for grounds, landscaping and maintenance. Grant-in-aid.	3,000
2.	Moiliili Community Center Funds for waterproofing of upper deck. Grant-in-aid.	18,000
3.	Moiliili Community Center Funds for painting of building. Grant-in-aid.	8,000
4.	Hawaii State Senior Center, Oahu Extension of roofline at the Hawaii State Senior Center.	20,000

### **U. CITY AND COUNTY OF HONOLULU**

(To be expended by the City and County of Honolulu)

1.	Widening of Makapuu Avenue, Kilauea Avenue and 18th Avenue Widening of Makapuu Avenue, Kilauea Avenue and 18th Avenue bordering the proposed Kapiolani Community College at Fort Ruger, using land already set aside for the college.	70,000
2.	Palolo Valley Field, Oahu To supplement previous appropriations to complete recreation facilities provided that no funds be made available unless the City and County of Honolulu provides matching funds for the purpose of this appropriation.	100,000
3.	Kanewai Field, Oahu To supplement previous appropriations for development of newly acquired land and improvement of existing bathroom facilities, provided that no funds be made available unless the City and County of Honolulu provides matching funds for the purpose of this appropriation.	50,000

4. Maunalani Park, Oahu	50,000
To supplement previous appropriations for extension to existing facilities, provided that no funds be made available unless the City and County of Honolulu provides matching funds for the purpose of this appropriation.	
5. Koko Drive, Oahu	40,000
Plans for realignment of 16th Avenue and Koko Drive, provided that no funds be made available unless the City and County of Honolulu provides matching funds for the purpose of this appropriation.	
6. Pukele Stream, Oahu	200,000
Plans and construction of a retaining wall to prevent erosion along Pukele Stream from Keanu Street to St. Louis Drive, provided that no funds be made available unless the City and County of Honolulu provides matching funds for the purpose of this appropriation.	
7. Kapahulu-Kaimuki Community Facility	200,000
Facility for senior citizen and community activity.	
8. McCully Recreation Center	11,000
Funds for equipment.	
9. McCully Recreation Center	28,000
Funds for construction of meeting and general purpose room.	
10. Manoa Recreation Center, Oahu	175,000
Plans and construction for enlargement of parking lot and repairing of gymnasium.	
11. Makiki District Park, Oahu	130,000
Construction of site improvements including building renovations for arts and crafts building, Agee Hall, administration building, volleyball and basketball courts, and general grounds improvements and landscaping.	
12. Booth District Park Multi-Purpose Building, Oahu	250,000
Construction and renovation of multi-purpose building at Booth District Park.	
13. Lanakila Recreation Center, Oahu	25,000
Construction of a swimming pool at the Lanakila Recreation Center.	
14. Waiakamilo Road Traffic Lights, Oahu	10,000
Plans and construction for traffic lights at Waiakamilo Road and Kaumualii Street, Oahu.	
15. Improvements to Kalakaua Gymnasium, Oahu	35,000
Design for improvements to Kalakaua gymnasium, Oahu. Includes plans for a multi-purpose room, bathroom renovation and office space.	
16. Improvements to Salt Lake Boulevard, Oahu	325,000
Grant-in-aid to the City and County of Honolulu for the widening of and the related improvements to Salt Lake Boulevard, Oahu.	
17. Improvement to Salt Lake Boulevard, Oahu	325,000
A grant-in-aid to the City and County of Honolulu for the widening of and other related improvements to the Salt Lake Boulevard project.	
18. Moanalua Recreation Center, Grant-In-Aid, Oahu	17,000
Grant-in-aid to the City and County of Honolulu for the planning and construction of a concrete stairway, providing safe access to Moanalua recreation center from Mahiole Street.	
19. Waiau District Park, Grant-in-Aid to City and County of Honolulu	50,000
Construction — Waiau District Park.	
20. Pedestrian Footpath Along Waimano Home Road,	10,000

## **ACT 1**

Grant-In-Aid to City and County of Honolulu Design and construction of new foot path along Waimano Home Road — Komo Mai Drive to Hookiekie Street on Honolulu side of Waimano Home Road — to entrance of Pearl City High School.		
21.	Mahoe Street, Waipahu Plans, engineering and construction for improvements to Mahoe Street from August Ahrens School to Hiapo Street. Supplements prior appropriation.	400,000
22.	Ewa Beach Public Swimming Pool Plans, design, and initial construction work of a public swimming pool at Ewa Beach, Oahu.	150,000
23.	Makakilo Community Park Recreation Center Design and construction for improvements.	105,000
24.	Covered Bleachers Waialua Park, Waialua, Oahu	20,000
25.	Covered Bleachers Fred Wright Park, Wahiawa, Oahu.	100,000
26.	Kahaluu Street Paving Grant-in-aid to the City and County of Honolulu for the paving of Kahaluu Street.	60,000
27.	A Grant-In-Aid to City and County of Honolulu Multi-purpose athletic field, Keahala Road and Kahekili Highway.	75,000
28.	Hoomaluhia Park Grant-in-aid to City and County of Honolulu to relocate guard house from Luluku Road entrance to Kionaole Road entrance.	20,000
29.	Hamakua Road, Kailua, Oahu Extension of Hamakua Road.	300,000
30.	Hamakua Drive, Kailua, Oahu Hamakua Drive construction.	500,000
31.	Mokuula Street, Waipahu Plans, engineering, and construction including all utilities. Supplements prior appropriation.	124,000
32.	Waipahu Cultural Garden Park Plans, engineering, and construction for phase I development. Supplements prior appropriation.	20,000
33.	Moanalua Road, Oahu Planning and engineering to improve Moanalua Road between Pali Momi Street and the Aiea Interchange.	78,000

### **UW. CITY AND COUNTY OF HONOLULU** (To be expended by the Board of Water Supply)

1.	Water Resources Development Plans, land acquisition, design, construction, and equipment for water resource development for the county of Oahu.	3,000,000
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### **IV. COUNTY OF KAUAI**

### **E. DEPARTMENT OF EDUCATION**

1.	Kapaa High and Intermediate School, Kapaa, Kauai Design and construct 12-classroom building with teacher center and ancillary facilities.	307,000
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2.	Kapaa High School track field, Kapaa, Kauai To restore the track field by replacing cinders and aggregate.	30,000
3.	Kilauea School, Kilauea, Kauai Design and construct paved playcourts.	81,000
4.	Wilcox Elementary School, Lihue, Kauai Renovate and improve existing facilities to accommodate district severely multiply handicapped students.	201,000

**F. UNIVERSITY OF HAWAII**

1.	Kauai Community College, Kauai Extension to welding shop design and construction for the extension of the welding shop building to house machine shop. This appropriation supplements funds appropriated by Act 300, SLH 1980, item G., 321B.	161,000
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**H. DEPARTMENT OF HEALTH**

(To be expended by Department of Health)

1.	G. N. Wilcox Memorial Hospital and Health Center, Kauai, Grant-In-Aid. a. Remodeling and intensive coronary care unit including monitoring equipment.	175,000
	b. Remodeling the second floor of main tower to establish alcohol treatment and rehabilitation centers.	50,000
	c. Repair of electrical wiring and plumbing in long term care unit. This appropriation supplements funds appropriated by Act 300, SLH 1980, item E, 27.	45,000

**X. COUNTY OF KAUAI**

(To be expended by the County of Kauai)

1.	Elderly Housing Complex Land acquisition, plans and construction for an elderly housing complex, Lihue, Kauai.	1,000,000
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**XW. COUNTY OF KAUAI**

(To be expended by the Board of Water Supply)

1.	Water Resources Development Plans, land acquisition, design, construction, and equipment for water resource development for the county of Kauai.	500,000
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**PART VII. SPECIAL PROVISIONS**

SECTION 105. Sand Island income from other lands and facilities, other than those set aside for Harbors or Foreign Trade Zone purposes, shall be deposited into the general fund.

SECTION 106. There is hereby appropriated out of the public trust fund created by Section 5(f) of The Admission Act (Public Law 86-3, 86th Congress), the total amount of the proceeds from the sale or other disposition of any lands, and the income therefrom granted to the State by Section 5(b) or later conveyed to the State by Section 5(e), with the exception of such proceeds covered under Section 171-19, Hawaii Revised Statutes, to be disposed of by the Board of Land and Natural Resources, and with the exception of such proceeds to be expended by the Office of Hawaiian Affairs under Chapter 10, Hawaii Revised Statutes, in order to reimburse the general fund for the appropriation made in Part II of this Act to the Department of Education for the support of public schools, to the extent such proceeds are realized for the period beginning July 1, 1981 to June 30, 1983. The above proceeds

## **ACT 1**

shall be exclusive of the amount disposed of under the provisions of the Hawaiian Homes Commission Act of 1920, as amended.

**SECTION 107.** Whenever the expending agency to which an appropriation is made is changed due to legislation enacted during any session of the legislature which affects the appropriations made by this Act, the Governor, or the Director of Finance, if so delegated by the Governor, shall transfer the necessary funds and positions to the proper expending agency, provided that a report for all such transfers shall be made to the legislature by February 1 of the following calendar year.

**SECTION 108.** All grants to private organizations in this Act are made in accordance with the standard that the private programs so funded yield direct benefits to the public and accomplish public purposes.

**SECTION 109.** No appropriation authorized 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 to increase the level of services under existing programs of that political subdivision. If any appropriation authorized in this Act falls within the provisions of Article VIII, Section 5 of the State Constitution, such authorization shall be void, and in the case of capital improvement appropriations designated to be financed from the general obligation bond fund, the total general obligation bonds authorized for this Act shall be correspondingly decreased.

**SECTION 110.** In allotting funds for social welfare programs and other programs and agencies having appropriations which are based on population and workload data as specified in the executive budget document, only so much as is necessary to provide the level of services intended by the Legislature shall be allotted by the Department of Budget and Finance. For this purpose, agencies concerned shall reduce expenditures below appropriations as prescribed by the Department of Budget and Finance in the event actual population and workload trend is less than the specified figure. In the event that the caseload trend is higher than the specified figure or the reasonable average daily cost of medical care for the needy and medically needy exceeds the anticipated average sum per patient day, or the caseload trend or average payments for money assistance payments is higher than the specified figure, the Governor is authorized to utilize savings as may be available from any other State program for the purpose of meeting the additional expenses of the social welfare program of the Department of Social Services and Housing.

**SECTION 111.** With the approval of the Director of Finance, the Department of Health may transfer to the Department of Social Services and Housing funds appropriated to the Department of Health for the care and treatment of patients whenever the Department of Social Services and Housing can utilize such funds to match federal funds which may be available to help finance the cost of outpatient, hospital, or skilled nursing home care of indigents or medical indigents.

The Department of Social Services and Housing is authorized to enter into agreements with the Department of Health to furnish outpatient, hospital and/or skilled nursing home care and to pay the Department of Health for such care. With the approval of the Director of Finance, the Department of Health may deposit part of such receipts into the appropriations from which transfers were made.

**SECTION 112.** Unless otherwise provided in this Act, the Governor is authorized to transfer funds between appropriations within an expending agency for research and development and operating purposes, provided that prior to effecting any transfer, the Governor shall obtain the approval of the President of the Senate and the Speaker of the House of Representatives; and provided, that such transfer shall not be made to implement any collective bargaining contract signed after this legislature adjourns sine die.

**SECTION 113.** Where a program is financed by the general fund as well as by federal matching funds, the general fund appropriation shall be decreased to the extent that the amount received from the federal fund source exceeds the amount approved in this Act from such source; provided that such decrease of the general fund appropriation shall not jeopardize the receipt of the increased amount from the federal matching fund source; provided further, that the preceding requirements shall not apply if the excess receipts are to be expended for a purpose or purposes of the program approved by the Governor, or the Director of Finance if so delegated by the Governor.

**SECTION 114.** For the fiscal biennium 1981-83, where a program is authorized under Part II of this Act to expend from a revolving, special, or trust fund, agencies responsible for such funds are authorized to expend so much as may be necessary to carry out the purpose of each such fund; provided that such expenditures in excess of the amount indicated in Part II are approved by the Governor or by the Director of Finance if so delegated by the Governor; and provided further, that such expenditure shall not exceed the amounts available in such funds.

**SECTION 114A.** Provided, that of the sums appropriated and positions approved for the Regular Instruction Program (EDN 105), it is the intent of the Legislature that the Governor is authorized to expend general fund moneys to provide for and maintain the level of services approved by the Legislature and authorized by this Act; provided further, that in the event the sum received by the Department of Education in EDN 105 under Public Law 81-874 (Impact Aid), or any other public law which amends or supersedes Public Law 81-874, for FY 1981-82 is less than the amount authorized in this Act, the Legislature shall under procedures established in Article III, Section 10 of the Hawaii State Constitution, meet in special session to deal with the problem.

**SECTION 115.** The Governor is hereby authorized to establish 20 permanent positions during each fiscal year of the fiscal biennium 1981-83 to be allocated by him to any of the program areas included in this Act as he shall deem proper. No positions shall be established under this section to implement any collective bargaining agreement signed after this legislature adjourns sine die.

**SECTION 116.** Any provision of law to the contrary notwithstanding the Governor is authorized to utilize and appropriate portion of such sums included in the respective program appropriation in Part II of this Act for personal services, for salary increases for public officers and employees excluded from collective bargaining under Chapter 89, Hawaii Revised Statutes; provided that said increases shall not exceed and shall not take effect earlier than increases for comparable members of collective bargaining units.

## **ACT 1**

**SECTION 117.** Where any 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 118.** In the event the State should assume the direct operation of any non-governmental 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 portion of the property, real, personal, or mixed, of such non-governmental agency. This credit shall be applicable regardless of when such acquisition takes place.

**SECTION 119.** Any law or any provision of this Act to the contrary notwithstanding, the appropriations made for capital investment projects authorized in this Act shall not lapse at the end of the fiscal biennium for which the appropriation is made, provided that all appropriations made to be expended in fiscal biennium 1981-83 which are unencumbered as of June 30, 1984 shall lapse as of that date, and provided further, that the lapsing date shall not apply to projects necessary to qualify for federal aid financing and reimbursement as listed and denoted in Section 92, which appropriations in its entirety the Legislature hereby determined are necessary to qualify for federal aid financing and reimbursement.

**SECTION 120.** If general obligation bond proceeds have been allocated to an appropriation 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 appropriation, the amount of such excess proceeds shall be transferred to a separate account and allocated to the satisfaction of other appropriations which may be satisfied from general obligation bond proceeds made in the same or any other act of the Legislature.

**SECTION 121.** The designated expending agency for capital investments 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.

**SECTION 122.** All general obligation bond funds used for highway, harbor, boating, airport or land development capital investment purposes, designated by the letter (D), shall have the bond principal and interest reimbursed from the state highway fund, the harbor special fund, the boating special fund, the airport revenue fund, or the special land and development fund, respectively. Bonds issued for irrigation projects shall be reimbursed, as provided by Section 174-21, Hawaii Revised Statutes.

The Governor is authorized to use, at his discretion, the state highway fund, the harbor special fund, the boating special fund, the airport revenue fund or the special land and development fund to finance the respective highway, harbor, boating, airport or land development projects authorized in this Act, where the method of financing is designated to be general obligation bond fund with debt service cost to be paid from special funds.

**SECTION 123.** Where county capital improvement projects are partially or totally funded by state grants-in-aid 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 124.** 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 herein authorized projects.

**SECTION 125.** Any law or any provision to the contrary notwithstanding, the Governor may supplement funds for any early-phased cost element (design or land) for a capital improvement project authorized under this Act by transferring such sums as may be needed from the funds appropriated for later-phased cost elements (land 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, provided that the total expenditure of funds for all cost elements for the project shall not exceed the total appropriations for that project.

**SECTION 126.** All unrequired balances after the objectives of appropriations made in this Act for capital investment purposes from the general obligation bond fund have been met shall be transferred to the project adjustment fund appropriated in Part II and described in Part IV of this Act and shall be considered a supplementary appropriation thereto.

In the event that the amount specified for a capital investment project listed in this Act or authorized by the Legislature in a prior year or in the future is insufficient, and where the source of funding for the project is designated as the general obligation bond fund, the Governor may make supplemental allotments from the project adjustment fund appropriated in Part II and described in Part IV; provided that such supplemental allotments from the project adjustment fund shall not be used to increase the scope of the project.

Any provision in this Act to the contrary notwithstanding, supplemental allotments from the project adjustment fund may be made for any capital investment cost element.

**SECTION 127.** In the event that the amount specified for a capital investment project listed in this Act is insufficient and where the source of funding is designated as special funds, general obligation bond fund with debt service cost to be paid from special funds, or revenue bond fund, the Governor may make supplemental allotments from the special fund responsible for cash or debt service payments for the projects or transfer unrequired balances from other projects in this or prior appropriation acts which authorized the use of special funds, general obligation bond fund with debt service costs to be paid from special funds, or revenue bond fund, provided that such supplemental allotments shall not be used to increase the scope of the project; provided further that such supplemental allotments shall not impair the ability of the fund to meet the purposes for which it was established.

**SECTION 128.** The Governor may authorize the expenditure of funds for capital investment projects not previously authorized in this Act to cope with unemployment, unforeseen emergencies arising from elements such as fires and natural disasters and for any federal aid portion of any capital investment project

## **ACT 1**

described in this Act where application for such aid has been made and approval has been denied; provided, that the unemployment, or such emergencies, or denial of federal aid create an urgent need to pursue a course of action which is in the best interest of the state; and provided further, that the Governor shall use the project adjustment fund authorized in Part II and described in Part IV to accomplish the purposes of this section.

**SECTION 129.** General revenues of the State of Hawaii may be expended by the Governor to cope with unemployment and unforeseen emergencies arising from elements such as fires and natural disasters; provided, that the unemployment, or such emergencies create an urgent need to pursue a course of action which is in the best interest of the state; provided, that the Governor may authorize an increase in repairs and maintenance activities on state facilities to alleviate the unemployment and cope with such emergencies. To accomplish the purpose of this section, the Governor is authorized to transfer to the Building, Repair and Alterations (AGS 233), and Physical Plant Operations and Maintenance (AGS 807) programs up to \$5,000,000 in savings as may be available from the appropriated funds of any program in this Act.

**SECTION 130.** 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 investment 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 appropriation for a project is insufficient.

**SECTION 131.** 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 service; 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 132.** Provided that if federal funds in the amounts designated under the Morrill-Nelson Bankhead-Jones Act, Hatch Act, and Smith-Lever Act are received in excess of the amounts authorized, then the general fund appropriations for Instruction-UOH, Manoa (UOH 101), Organized Research-UOH, Manoa (UOH 102), and Public Service-UOH, Manoa (UOH 103), respectively shall be reduced by the amounts such receipts exceed the federal funds authorized in the fiscal biennium 1981-83.

## **PART VIII. MISCELLANEOUS AND EFFECTIVE DATE**

**SECTION 133. Miscellaneous.** 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 appropriation 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 such appropriation to the extent possible.

SECTION 134. In the event 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 135. **Effective date.** This Act shall take effect on July 1, 1981, with the exception of Section 42, which shall take effect upon approval.

(Approved June 29, 1981.)

## ACT 2

H.B. NO. 2

A Bill for an Act Relating to the Judiciary Budget.

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

### PART I. GENERAL PROVISIONS

SECTION 1. **Short Title.** This Act shall be known as the Judiciary Appropriations Act of 1981.

SECTION 2. **Definitions.** Unless otherwise clear from the context, as used in this Act:

(a) "Program ID" means the unique identifier for the specific program, and consists of the abbreviation for the judiciary (JUD) followed by a designated number for the program.

(b) "Means of Financing," or "MOF," means the source from which funds are appropriated to be expended for the programs and projects specified in this Act. All appropriations are followed by letter symbols. Such letter symbols, where used, shall have the following meanings:

- A General fund
- B Special fund
- N Other federal funds
- C General obligation bond fund

(c) "Position ceiling" means the maximum number of permanent positions authorized for a particular program during a specified period or periods, as noted by an asterisk.

### PART II. PROGRAM APPROPRIATIONS

SECTION 3. **Appropriations.** The following sums, or so much thereof as may be sufficient to accomplish the purposes and programs designated herein, are appropriated from the sources of funding specified to the judiciary for the fiscal biennium beginning July 1, 1981 and ending June 30, 1983. The total expenditures and the number of permanently 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.

## ACT 2

Item No.	Program	Program ID	FY 1981-82 M F	FY 1982-83 M F	Total Biennium 1981-83 M F
<b>THE JUDICIAL SYSTEM</b>					
Court Operations					
1	Court of Appeals Operating	JUD 101	40.00* 1,268,363A	40.00* 1,309,450A	2,577,813A
2	Land Court/Tax Court Operating	JUD 102	4.00* 90,164A	4.00* 100,013A	190,177A
3	Circuit Courts Operating	JUD 111	248.00* 5,928,121A 108,000N	248.00* 6,271,777A 115,500N	12,199,898A 223,500N
4	Family Courts Operating	JUD 112	221.50* 5,507,325A 109,323N	221.50* 5,878,346A 112,507N	11,385,671A 221,830N
5	District Courts Operating	JUD 121	379.00* 6,816,304A	390.00* 8,446,204A	15,262,508A
Support Services					
6	Administrative Director Services Operating Investment: Capital	JUD 201	69.00* 3,067,696A 15,340,000C	69.00* 2,545,061A C	5,612,757A 15,340,000C
7	Law Library Operating	JUD 202	8.00* 444,075A	8.00* 460,374A	904,449A
8	Driver Education and Training Operating	JUD 221	43.00* 668,453B	43.00* 688,940B	1,357,393B

**SECTION 4.** Whenever the expending program of the judiciary to which an appropriation is made is changed due to legislation enacted during any session of the legislature which affects the appropriations made by this Act, the chief justice shall transfer the necessary funds and positions to the proper expending program.

**SECTION 5.** Whenever the need arises, the chief justice, in administering an equitable and expeditious judicial process, is authorized to transfer sufficient funds and positions between programs for research and development and operating purposes; provided that such transfer shall not be made to implement any collective bargaining contracts signed after this Legislature adjourns sine die.

**SECTION 6.** Where the chief justice or any agency or any government unit is able to secure federal funds or other property made available under any act of Congress, or any funds or other property from private organizations or individuals which are to be expended in connection with any program or works authorized by this Act, or otherwise, the chief justice or agency with the chief justice's approval shall have the power to enter into such undertaking with the proper offices or agencies of the federal government or private organization or individuals. While most federal aid allocations are known and state matching funds are provided in this Act, there may be programs for which federal-state cost sharing is not yet deter-

mined. In such instances, the availability of federal funds shall be construed as a proportionate reduction of state costs whenever possible.

**SECTION 7.** Provided, that of the general fund appropriation for the Administrative Director Services Program (JUD 201), \$25,000 in each fiscal year of the biennium shall be used for a judicial selection commission.

**SECTION 8.** Provided, that of the general fund appropriation for the Administrative Director Services Program (JUD 201), \$5,000 in each fiscal year of the biennium shall be used for a commission on judicial discipline.

**SECTION 9.** Provided that of the general fund appropriation for the Administrative Director Services Program (JUD 201), \$33,000 in fiscal year 1981-82 shall be used for the task force for the study of laws relating to guardianship, civil commitment, and protective services for the development of proposals for reform of the laws relating to civil commitment in the state.

### PART III. CAPITAL IMPROVEMENT PROJECTS

**SECTION 10. Capital Improvement Projects.** The sum of \$15,340,000 appropriated 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 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 dollars and are to be expended by the judiciary.)

Item No.	Program and Capital Project	Program ID	FY	M	FY	M	Total		
			1981-82	F	1982-83	F	Biennium		
<b>THE JUDICIAL SYSTEM</b>									
Support Services									
	Administrative Director Services		JUD 201						
1	Honolulu District Court, Oahu								
	Design, construction and furnishing of facilities for the Honolulu District Court within the State Capitol Complex.								
	Design				71		71		
	Construction				125		125		
	Equipment				1,154		1,154		
	Total Funding				1,350C		1,350C		
2	State Judiciary Complex, Oahu								
	Design and furnishing for the State Judiciary Complex.								
	Design				92		92		
	Total Funding				92C		92C		

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Item No.	Program and Capital Project	Program ID	FY 1981-82	M O F	FY 1982-83	M O F	Total Biennium M O F 1981-83
3	Wailuku Judiciary Complex, Maui						
	Design, construction and furnishing of a Judiciary Complex consisting of the Wailuku District Court and Second Circuit Court in the Wailuku Civic Center.						
	Design				221		221
	Construction				11,809		11,809
	Equipment				41		41
	Total Funding				12,071C		12,071C
4	Remodeling and Upgrading Judiciary Buildings, Statewide						
	Design, construction and furnishing of equipment to remodel and upgrade Judiciary buildings statewide.						
	Design				35		35
	Construction				125		125
	Equipment				5		5
	Total Funding				165C		165C
5	Advance Planning Judiciary						
	Advance planning for statewide Judiciary facilities planning projects.						
	Plans				10		10
	Total Funding				10C		10C
6	Renovation of Ali'ioli Hale, Phase II, Oahu						
	Design for the renovation of Ali'ioli Hale to accommodate the Supreme Court Clerk's Office, Law Library and the Administrative Director's Office.						
	Design				670		670
	Total Funding				670C		670C
7	South Kohala District Court, Hawaii						
	Construction and furnishing of the South Kohala District Court in the Waimea Civic Center.						
	Construction				560		560
	Equipment				37		37
	Total Funding				597C		597C
8	Renovation of Lahaina District Court, Maui						
	Renovation and furnishing of the second floor of the Lahaina Courthouse to accommodate the District Court.						
	Construction				318		318
	Equipment				18		18
	Total Funding				336C		336C

Item No.	Program and Capital Project	Program ID	FY	M	FY	M	Total
			1981-82	F	1982-83	F	Biennium 1981-83
9	Molokai District Court, Molokai						
	Design, construction and furnishing of the District Court in the Kaunakakai Civic Center.						
	Design				49		49
	Total Funding				49C		49C

#### PART IV. SPECIAL PROVISIONS

SECTION 11. Any law or any provision of this Act to the contrary notwithstanding, the appropriations made for capital investment projects in Part II and listed in Part III of this Act shall not lapse at the end of the fiscal year for which the appropriation is made; provided that all appropriations made to be expended in fiscal biennium 1981-83 which are unencumbered as of June 30, 1984 shall lapse as of that date.

SECTION 12. The judiciary is authorized to delegate to other State or County agencies the acquisition of land, planning, design, and construction of any capital improvement project when it is determined by the judiciary that it is an advantage to do so.

SECTION 13. All unrequired balances after the objectives of appropriations made in Part II for capital investment purposes from the general obligation fund and listed as projects in Part III have been met, shall be transferred to the judiciary project adjustment fund.

SECTION 14. In the event that the amount specified for a capital investment project listed in Part III is insufficient and where the source of funding for the project is designated as the general obligation bond fund, the chief justice may make supplemental allotments from the project adjustment fund; provided that such supplemental allotments shall not be used to increase the scope of the project; provided further that a report of such supplemental allotments and transfers into the judiciary project adjustment fund as provided by section 13 for the period ending December 31 of each calendar year shall be made to the President of the Senate and the Speaker of the House of Representatives by February 1 of the following calendar year.

SECTION 15. 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 project listed in Part III, the chief justice may authorize such reduction of project scope; provided that the scope of a project shall not be reduced merely because the appropriation for the project is insufficient.

SECTION 16. The chief justice shall determine when and the manner in which the authorized projects shall be initiated. He shall notify the governor from time to time of the specific amounts required for the projects, and the governor shall provide for such amounts through the issuance of bonds.

## **ACT 3**

### **PART V. MISCELLANEOUS PROVISIONS AND EFFECTIVE DATE**

**SECTION 17. Severability.** If any portion of this Act or its application to any person or circumstances is held to be valid 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 appropriation 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 and intent of such appropriation to the extent possible.

**SECTION 18. Manifest errors.** In the event manifest clerical, typographical, or other mechanical errors are found in this Act, the chief justice is authorized to correct such errors. All changes made pursuant to this section shall be reported to the legislature at its next session.

**SECTION 19. Effective date.** This Act shall take effect on July 1, 1981.

(Approved June 29, 1981.)

## **ACT 3**

**H.B. NO. 3**

### **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 outstanding, will not cause the debt limit to be exceeded at the time of issuance.", the legislature finds and declares as follows:

- (1) Limitation on general obligation debt. The debt limit of the State is set forth in Article VII, Section 13, of the State Constitution, which states in part: "General obligation bonds may be issued by the State; provided that such bonds at the time of issuance would not cause the total amount of principal and interest payable in the current or any future fiscal year, whichever is higher, on such bonds and on all outstanding general obligation bonds to exceed: a sum equal to twenty percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance until June 30, 1982; and thereafter, a sum equal to eighteen and one-half percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance." Article VII, Section 13, also provides that in determining the power of the State to issue general obligation bonds, certain bonds are excludable, including "reimbursable general obligation bonds issued for a public undertaking, improvement or system but only to the extent that reimbursements to the general fund are in fact made from the net revenue, or net user tax receipts, or combination of both, as determined for the

immediately preceding fiscal year."

- (2) Actual and estimated debt limits. The limit on principal and interest of general obligation bonds issued by the State, actual for fiscal year 1980-81 and estimated for each fiscal year from fiscal year 1981-82 to 1984-85, is as follows:

Fiscal Year	Net General Fund Revenues	Debt Limit
1977-78	\$ 792,058,521	
1978-79	915,099,052	
1979-80	1,056,696,544	
1980-81	1,158,900,000	\$184,256,941
1981-82	1,214,600,000	208,713,040
1982-83	1,341,700,000	211,528,787
1983-84	1,484,800,000	229,104,000
1984-85	Not applicable	249,201,167

For fiscal years 1980-81 and 1981-82, the debt limit is derived by multiplying the average of the net general fund revenues for the three preceding fiscal years by twenty per cent. For fiscal years 1982-83, 1983-84, and 1984-85, 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 1977-78, 1978-79, and 1979-80 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, 1980, dated November 18, 1980. The net general fund revenues for fiscal years 1980-81 to 1983-84 are estimates, based on general fund revenue estimates made as of January 10, 1981, 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. As certified by the director of finance in the Statement of the Debt Limit of the State of Hawaii as of July 1, 1980, 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 is as follows for fiscal year 1981-82 to fiscal year 1987-88:

Fiscal Year	Principal and Interest
1981-82	\$134,276,592
1982-83	136,127,234
1983-84	131,441,372
1984-85	126,282,397
1985-86	120,574,415
1986-87	115,241,560
1987-88	110,075,727

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The Statement of the Debt Limit as of July 1, 1980 further shows that the amount of principal and interest on outstanding bonds applicable to the debt limit continues to decline each year from fiscal year 1988-89 to fiscal year 2012 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 December 31, 1980, the total amount of authorized but unissued general obligation bonds, as of December 31, 1980, is \$495,893,012. The total amount of general obligation bonds authorized by this Act is \$161,311,000. The total amount of general obligation bonds previously authorized and unissued and the general obligation bonds authorized by this Act is \$657,204,012.
- (5) Proposed general obligation bond issuance. As reported in the Multi-Year Program Plan and Executive Budget, dated December 1980, as it applies to the remainder of fiscal year 1980-81 and the fiscal biennium 1981-83, and as reported by the department of budget and finance for fiscal years 1983-84 and 1984-85, the State proposes to issue \$75,000,000 in each of two issues of general obligation bonds in the remainder of fiscal year 1980-81, and \$75,000,000 semi-annually in each fiscal year from fiscal year 1981-82 to fiscal year 1984-85. 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 semi-annually 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 bond issuance to meet the requirements of authorized and unissued bonds 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 in the remainder of the current fiscal year and in fiscal years 1981-82 to 1983-84 is \$600,000,000. An additional \$150,000,000 is proposed to be issued in fiscal year 1984-85. The total amount of \$600,000,000 which is proposed to be issued through fiscal year 1983-84 is sufficient to meet the requirements of the authorized and unissued bonds and the bonds authorized by this Act, the total amount of which is \$657,204,012, as reported in paragraph (4), except for \$57,204,012. It is assumed that the appropriations to which an additional \$57,204,012 in bond issuance needs to be applied will have been encumbered as of June 30, 1984. The \$150,000,000 which is proposed to be issued in fiscal year 1984-85 will be sufficient to meet the requirements of the June 30, 1984 encumbrances in the amount of \$57,204,012 with the remaining amount being applied to such other appropriations as the Legislature may subsequently authorize. The amount of assumed encumbrances as of June 30, 1984 is reasonable and conservative, based upon an inspection of June 30 encumbrances of the general obligation bond fund which discloses that the assumed amount of June 30, 1984 encumbrances is lower than the encumbrances for each of

the past five fiscal years. Thus, taking into account the amount of authorized and unissued bonds and the bonds authorized by this Act versus the amount of bonds which is proposed to be issued by June 30, 1984 and the amount of June 30, 1984 encumbrances versus the amount of bonds which is proposed to be issued in fiscal year 1984-85, 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 issuance because:
  - (A) It is not known exactly when projects for which reimbursable bonds have been authorized in prior acts and in this Act will be implemented and will require the application of proceeds from a particular bond issue; and
  - (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, as reported in the Statement of the Debt Limit of the State of Hawaii as of July 1, 1980, the average proportion of principal and interest which is excludable each year from calculation against the debt limit is 17.37 per cent for the ten years from fiscal year 1981-82 to fiscal year 1990-91. 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 the average interest rate of twelve per cent, the maximum allowable by law, 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 and the bonds authorized by this Act, will not cause the debt limit to be exceeded at the time of each bond issuance:

<b>Time of Issue and Amount of Issue to be Counted Against Debt Limit</b>	<b>Debt Limit at Time of Issuance</b>	<b>Greatest Amount &amp; Year of Principal &amp; Interest</b>
1st issue remainder FY 1980-81 \$67,500,000	\$184,256,941	\$144,227,234 (FY 1982-83)

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Time of Issue and Amount of Issue to be Counted Against Debt Limit	Debt Limit at Time of Issuance	Greatest Amount & Year of Principal & Interest
2nd issue remainder FY 1980-81 \$67,500,000	184,256,941	155,147,372 (FY 1983-84)
1st half FY 1981-82 \$67,500,000	208,713,040	163,247,372 (FY 1983-84)
2nd half FY 1981-82 \$67,500,000	208,713,040	172,568,497 (FY 1984-85)
1st half FY 1982-83 \$67,500,000	211,528,787	180,668,497 (FY 1984-85)
2nd half FY 1982-83 \$67,500,000	211,528,787	188,768,497 (FY 1984-85)
1st half FY 1983-84 \$67,500,000	229,104,000	196,868,497 (FY 1984-85)
2nd half FY 1983-84 \$67,500,000	229,104,000	204,968,497 (FY 1984-85)
1st half FY 1984-85 \$67,500,000	249,201,167	212,839,895 (FY 1985-86)
2nd half FY 1984-85 \$67,500,000	249,201,167	220,939,895 (FY 1985-86)

(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 by 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 to yield the amount that may be necessary to finance projects authorized in H.B. No. 1 and H.B. No. 2, 1981 first special session, and designated to be financed from the general obligation bond fund and from the general obligation bond fund with debt service costs to be paid from special funds; provided that the sum total of the general obligation bonds so issued shall not exceed \$161,311,000.

SECTION 4. Section 37-71, Hawaii Revised Statutes is amended by amending subsection (d) to read as follows:

"(d) The summaries of the state receipts and revenues shall more specifically include:

- (1) Financial summaries displaying the State's financial condition, to-wit:
  - (A) A display of the proposed, total state expenditures, by cost categories, the total state resources anticipated from existing taxes and non-tax sources at existing rates, by resource categories (including the available fund balances or deficits and anticipated bond receipts), and the fund balance or deficit resulting therefrom for the biennium in progress, for the ensuing biennium, and for each of the two fiscal years of the ensuing biennium.
  - (B) The changes proposed to the existing tax and non-tax rates, sources, or structure, and the estimated cumulative increases or reductions, and the estimated fund balance or deficit in the ensuing biennium and in each of the two fiscal years of the biennium as a result of such proposed changes. Proposals for changes in the existing tax and non-tax rates, sources, or structure shall be made in every case where the proposed, total state expenditures exceed the total state resources anticipated from existing tax and non-tax sources at existing rates.

Such financial summaries shall be prepared for the total state expenditures and resources and for the general fund and special fund portions thereof.

- (2) A summary of the balances of each special fund, actual for the last completed fiscal year and estimated for the fiscal year in progress and for each of the two fiscal years in the ensuing biennium.
- (3) A summary of the State's total bond fund required to carry out the recommended programs and the kinds of bonds and amounts thereof through which such requirements are to be met in the biennium in progress and in each of the two fiscal years in the ensuing biennium. The summary shall detail for the biennium in progress and for each of the two years of the ensuing biennium:
  - (A) Of the total requirements, the amount, by cost categories, requiring new bond issuance authorization and the kinds and amounts of bonds planned for issuance under such new authorization.
  - (B) By bond categories, the total, cumulative balance of bonds authorized in prior years but unissued and the amount thereof planned to be issued.
  - (C) A recapitulation of the total bonds, both new authorizations and prior authorizations, by bond categories, proposed to be issued.
- (4) A tentative schedule by quarter and fiscal year of the amount of general obligation bonds and the amount of revenue bonds proposed to be issued in the ensuing fiscal biennium.
- (5) A schedule of projected debt service charges for general obligation bonds outstanding at the time of the submission of the budget and to be issued by the close of the budget biennium in progress and the close of the

## ACT 3

ensuing budget biennium. The projection shall be separately stated for:

(A) Bonds currently outstanding.

(B) Bonds to be issued during the remainder of the fiscal biennium in progress and during the ensuing fiscal biennium.

(C) The total bonds currently outstanding and to be issued.

In each case, the projection shall be categorized into debt service to be paid directly from the general fund, debt service to be paid through reimbursements, and total debt service. The projection shall extend at least five years beyond the close of the ensuing fiscal biennium. An explanation shall be appended to the schedule, which shall include among other things, the amount of bonds to be issued during the fiscal year in progress and in each of the two fiscal years of the ensuing biennium, the maturities of the bonds to be issued, the method of retirement, and the interest rate assumed in the projection.

(6) A schedule of the current state funded debt, legal debt limit, and the legal debt margin, including the details thereof. In any budget which proposes appropriations for which the source of funding is general obligation bonds, the schedule shall include a declaration by the director of finance and computations showing that the total amount of principal and interest, estimated for such proposed appropriations 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.

(7) Separately for general fund tax revenues, special fund tax revenues, general fund non-tax revenues, and special fund non-tax revenues:

(A) By kinds of taxes or sources, the amount of revenue from existing, authorized taxes or sources at existing rates received in the last completed fiscal year and estimated to be received in the fiscal year in progress and in each of the two fiscal years in the ensuing biennium, with appropriate totals for the two bienniums.

(B) A summary of the proposed changes in the existing taxes or sources or rates, and the estimated increases or reductions in revenues in each of the two years in the ensuing fiscal biennium resulting from such changes.

(C) The total estimated revenues with and without the proposed changes."

SECTION 5. Section 37-72, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Not less than twenty days before the legislature convenes in regular session in an even-numbered year, the governor may submit to the legislature a supplemental budget to amend any appropriation for the current fiscal biennium. The supplemental budget shall reflect the changes being proposed in the State's program and financial plan and shall be submitted as applicable, in the manner provided in section 37-71. In any supplemental budget which proposes appropriations for which the source of funding is general obligation bonds, the budget shall include the schedule, declaration, and computations specified in section 37-71(d)(6)."

**SECTION 6.** 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 7.** In printing this Act, the revisor of statutes shall substitute in Section 3 the corresponding act numbers for the bills identified therein.

**SECTION 8.** New statutory material is underscored.\*

**SECTION 9.** This Act shall take effect on July 1, 1981.

(Approved June 29, 1981.)

**ACT 4**

H.B. NO. 4

A Bill for an Act Relating to the 1984 Silver Jubilee of Hawaii's Statehood and Making an Appropriation Therefor.

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

**SECTION 1. Creation of a 1984 Silver Jubilee of Hawaii's Statehood Celebration Committee.** There is established a committee to be known as "The 1984 Hawaii Statehood Silver Jubilee Committee" which shall have charge of all arrangements for the State's official celebration of the 25th birthday of the State of Hawaii, which birthday will occur on Tuesday, August 21, 1984.

The committee shall be placed within the office of the governor. It shall not continue beyond June 30, 1986.

**SECTION 2. Membership, compensation.** The committee shall consist of eleven members. Nine members shall be appointed by the governor, of which at least one member shall be appointed from each county. In addition, the president of the senate and the speaker of the house of representatives shall each nominate a panel of three persons from each panel of which the governor shall select one person, as members of the committee. The governor shall designate the chairman of the committee. The members shall receive no compensation for their services but shall be reimbursed for travel and other necessary expenses in the performance of their duties.

**SECTION 3. Powers and duties.** The committee shall plan an overall program for commemorating the 25th anniversary—the Silver Jubilee—of the admission of Hawaii into the Union as a State of the United States of America, and submit such a plan to the governor and the legislature by January 1, 1982, for implementation, consideration, and appropriate funding.

**SECTION 4. Acceptance of donations, disposition of property.** The committee may accept donations of money, personal property, or personal services. All property acquired by the committee shall be deposited for preservation in the Hawaii state archives, state library system, or otherwise disposed of by the

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## **ACT 5**

committee in consultation with the superintendent of education. All money donated to the committee shall be deposited with the director of finance and is appropriated to the committee. Disbursement of such money shall be by state warrants issued in accordance with applicable laws and regulations and based on vouchers signed by the chairman of the committee.

**SECTION 5. Reports.** The committee shall submit to the legislature by January 1, 1986, a final report on all its activities. The report may include reports on other major activities related to the 1984 celebration, and shall include an accounting of all property and money received and disbursed.

**SECTION 6. Appropriation.** 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, to effectuate the initial planning for the 1984 celebration, with the anticipation that further appropriations to carry out an actual celebration in 1984 will be necessary.

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, 1982, shall lapse into the general fund.

**SECTION 7. Effective date.** This act shall take effect upon its approval.

(Approved June 29, 1981.)

## **ACT 5**

**H.B. NO. 5**

A Bill for an Act Relating to State Officers and Employees Excluded from Collective Bargaining and Making Appropriations and Other Adjustments.

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

### **PART I**

**SECTION 1.** There is appropriated or authorized from the sources of funding indicated below to Program Planning, Analysis, Budgeting (BUF 101) the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1981-83, the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees excluded from collective bargaining:

	<b>FY 1981-82</b>	<b>FY 1982-83</b>
General Funds	\$2,603,888	\$5,675,442
Federal Funds	262,614	565,192
Special Funds	469,829	1,009,020
Other Funds	22,287	49,109

SECTION 2. Funds appropriated or authorized by this Part shall be expended by the director of finance in the respective fiscal year for the purposes of this Part.

**PART II**

SECTION 3. There is 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, to fund for the fiscal biennium 1981-83, the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, by the chief justice for officers and employees excluded from collective bargaining:

	<b>FY 1981-82</b>	<b>FY 1982-83</b>
General Funds	\$104,239	\$237,367
Federal Funds	0	0
Special Funds	0	0

SECTION 4. The sums appropriated or authorized by this Part shall be expended by the chief justice in the respective fiscal year for the purposes of this Part.

**PART III**

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii to the legislative agencies indicated below, the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 1981-83, the salary increases for officers and employees in these agencies excluded from collective bargaining:

	<b>FY 1981-82</b>	<b>FY 1982-83</b>
Office of the		
Legislative Auditor	\$76,422	
Ethics Commission	8,900	
Legislative Reference Bureau	12,800	
Ombudsman	8,480	

SECTION 6. The sums appropriated by this part shall be expended by the respective heads of the legislative agencies.

**PART IV**

SECTION 7. Salary increases and cost adjustments provided in this Act for

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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 8. Funds appropriated or authorized by this Act which are not expended or encumbered by June 30, 1982, and June 30, 1983, of the respective fiscal year shall lapse as of those dates.

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

(Approved June 29, 1981.)

## ACT 6

H.B. NO. 6

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 87-4, Hawaii Revised Statutes, is amended to read as follows:

**“§87-4 State and county contributions to the fund.** (a) The State through the department of budget and finance and the several counties through their respective departments of finance shall pay to the fund a monthly contribution of \$14.88 for each of their respective employee-beneficiaries and \$47.34 for each respective employee-beneficiary with a dependent-beneficiary, such contributions to be used towards the payment of costs of hospital, medical, and surgical benefits of a health benefits plan, provided that the monthly contribution shall not exceed the actual cost of a health benefits plan. If both husband and wife are employee-beneficiaries, the total contribution by the State or the appropriate county shall not exceed the monthly contribution of a family plan for both of them.

(b) The State through the department of budget and finance and the several counties through their respective departments of finance shall pay to the fund a monthly contribution of \$5.00 for each child who has not attained the age of nineteen of all employee-beneficiaries who are enrolled for dental benefits. The contributions shall be used towards the payment of costs of dental benefits of a health benefits plan. Notwithstanding any provisions to the contrary, no part of the fund shall be used to finance the contributions except a rate credit or reimbursement or earnings or interest therefrom received by the fund or general revenues appropriated for that purpose.

(c) The State through the department of budget and finance and the several counties through their respective departments of finance shall pay to the fund a monthly contribution of \$2.25 for each of their respective employees to be used towards the payment of group life insurance benefits for each employee.

(d) The several counties through their respective departments of finance shall annually reimburse the State no later than December 30 of each fiscal year for their respective pro rata share of the cost of administering the fund for the fiscal year for the benefit of their employee-beneficiaries and dependent-beneficiaries. Each county's pro rata share shall be determined by allocating the amount appropriated for administering the fund for the fiscal year, after excluding therefrom state and county contributions for hospital, medical, and surgical benefits, dental benefits,

and group life insurance benefits, in the same proportion as the aggregate annual amount of state and county contributions for such benefits as of October 31 of the preceding fiscal year. The amount of any excess or deficiency required to administer the fund shall be subtracted from or added to, as the case may be, the amount due from each county for the succeeding fiscal year.

(e) Contributions made by the State or the several counties shall not be considered as wages or salary of an employee-beneficiary, and no employee-beneficiary shall have any vested right in or be entitled to receive any part of any contribution made to the fund."

**SECTION 2.** There is appropriated out of the general revenues of the State of Hawaii to be expended by the department of budget and finance the sum of \$684,000 for fiscal year 1981-82 or so much thereof as may be necessary for the purposes of this Act and the sum of \$719,000 for the fiscal year 1982-83 or so much thereof as may be necessary for the purposes of this Act.

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

**SECTION 4.** This Act shall take effect on July 1, 1981.

(Approved June 29, 1981.)

## ACT 7

H.B. NO. 7

A Bill for an Act Relating to Deferred Compensation Plans for Public Employees.

*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:

### **"CHAPTER DEFERRED COMPENSATION PLAN**

**§ -1 Definitions.** As used in this chapter, unless the context clearly indicates otherwise:

- (1) "State" means the State of Hawaii.
- (2) "County" means the counties of Hawaii, Kauai and Maui, and the city and county of Honolulu.
- (3) "Employee" means a person who is eligible to participate in the employees' retirement system of the State of Hawaii as defined in section 88-21.

**§ -2 State deferred compensation plan.** The State may establish a deferred compensation plan in accordance with section 457 of the Internal Revenue Code of 1954, as amended, for the benefit of employees to defer a portion of their compensa-

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and, underscoring.

tion to a future period of time. Participation in the plan shall be by written agreement between the employee and the State. The county may enter into a formal agreement with the State to extend the plan to employees of the county; provided that the agreement designates one of the county's agencies to locally coordinate the plan. Participation in the plan by a county employee shall be by written agreement between the employee and the county. An employee may authorize deductions to be made from the employee's wages for the purpose of participation in the plan.

**§ -3 Board of trustees.** The authority to establish the plan and make this chapter effective is vested in the board of trustees. The board shall be placed within the department of personnel services for administrative purposes.

The board shall adopt such rules to carry out this chapter in accordance with chapter 91. The board may engage services, as necessary, to establish, administer, or maintain the plan under its direction. An administrator may be engaged only after a solicitation of proposals from interested persons in accordance with specifications deemed appropriate by the board.

**§ -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, ex officio;
- (3) Five other persons, three of whom shall be public employees and represent employee interests.

**§ -5 Appointment and terms.** Except for the directors of personnel services and finance, the members of the board shall be nominated and, by and with the advice and consent of the Senate, appointed by the governor and shall serve terms of four years each; provided that of the trustees first appointed upon establishment of the board one shall be appointed for one year, one shall be appointed for two years, one shall be appointed for three years, and two shall be appointed for four years.

A vacancy on the board shall be filled by appointment of the governor. The person appointed to fill a vacancy shall serve for the remainder of the unexpired term. If by the end of a term a trustee is not reappointed or a successor is not appointed, the trustee shall serve until his successor is appointed.

Membership on the board shall not be deemed incompatible with the holding of any other public employment.

**§ -6 Compensation and expenses.** Each trustee shall serve without compensation but shall be reimbursed from the fund for any necessary expense incurred in the performance of his duties.

**§ -7 Legal advisor.** The attorney general shall be the legal advisor of the board.

**§ -8 Deferred funds.** Sums deferred under the plan, as well as property and rights purchased with such amounts and income attributable to such amounts, shall remain an unrestricted asset of the respective state or county jurisdiction.

**§ -9 Investments.** The board may create a trust or other special funds for the segregation of funds or assets resulting from compensation deferred and for the

administration of the plan. Funds held by the board pursuant to a plan established under this chapter shall be invested in accordance with investment products permitted under the plan; provided that any investment contract entered into shall be made with companies authorized and licensed to do business in the State. Investment products shall be limited to annuities, life insurance, savings accounts, mutual funds, or any combination thereof which shall have been reviewed and selected by the board after a competitive bidding process based on the specifications and considerations deemed appropriate by the board. The investments shall not be construed to be a prohibited use of general assets of the State. Nothing in this chapter shall be construed to permit any type of investment prohibited by law.

**§ -10 Custodian of the funds.** The state director of finance shall be the custodian of the funds created under the plan. All payments from the fund shall be made by the director only upon vouchers signed by the chairperson of the board and countersigned by other persons designated by the board.

**§ -11 Limitation on liability.** The State or county shall not be liable for the sums deferred or the results of any investment product.

**§ -12 Deferred amounts as compensation.** Any compensation deferred pursuant to a plan established under this chapter shall be deemed regular compensation for the purpose of computing contributions or benefits under existing retirement, pension, or social security systems applicable to participating employees but shall not be included in the computation of federal income taxes withheld on behalf of any participating employee.

**§ -13 Costs of the plan.** Costs for implementing and administering the plan shall be borne by the plan and its participants, except for incidental expenses, such as, the cost of payroll deductions and the routine processing of forms.

**§ -14 County deferred compensation plans.** The counties may establish deferred compensation plans for their respective employees. A plan so established need not be subject to the other provisions of this chapter, but shall be in compliance with applicable federal laws and regulations.

**§ -15 Existing deferred compensation plans.** This chapter shall not affect any existing deferred compensation plan established under section 457 of the Internal Revenue Code, as amended."

SECTION 2. 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 1981-82, for initial implementing costs in carrying out the purposes of this Act. The sum appropriated shall be expended by the department of personnel services. Any sums so expended shall be reimbursed by the plan.

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

(Approved June 29, 1981.)

## **ACT 8**

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

**SECTION 1.** The legislature finds that there exists in the State a serious shortage of venture capital to promote the development and exploitation of inventions and new products; that this shortage hampers the development of new and diverse business enterprises and job opportunities; and that if venture capital could be attracted and infused into the development of new products, innovations, and inventions, such support would result in increased employment and a stronger, more diverse economy.

The legislature further finds that one means of generating and attracting venture capital to support the development of inventions and new products is by the establishment of an information center. Such a center would facilitate the bringing together of prospective investors with venture capital with inventors and developers of new products.

**SECTION 2.** The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

### **"CHAPTER HAWAII INVENTION DEVELOPMENT PROGRAM**

**§ -1 Definitions.** As used in this chapter:

"Financing" means furnishing risk capital to persons for use in the development or exploitation of specific inventions or products.

"Invention" means any new process or technique for which a patent has been granted; or which in the opinion of the advisory committee, the chance of obtaining a patent thereon is favorable.

"Product" means any product, device, technique, or process, which is or may be exploitable commercially. This term shall not refer to pure research but shall be construed to apply to such products, devices, techniques, or processes which have advanced beyond the theoretical stage and are readily capable of being, or have been reduced to practice.

"Venture" means, without limitation, any contractual arrangement with any person whereby the investor with risk capital obtain rights from or in an invention or product or proceeds therefrom in exchange for financing such persons.

**§ -2 Hawaii invention development fund; establishment.** (a) There is established a revolving fund to be known as the Hawaii invention development fund to be administered by the department of planning and economic development for the purpose of promoting the development of new products or inventions that have direct economic benefits for Hawaii. The department shall provide low interest loans pursuant to subsection (b) to inventors for the development of their new product or invention. All moneys received as repayment of loans and interest payment shall be deposited in the fund.

(b) The department shall adopt rules pursuant to chapter 91 to carry out the purposes of this chapter including the following:

- (1) Prescribe the qualification for eligibility of loan applicants;
- (2) Establish preferences and priorities in determining eligibility for loans

- and loan repayments;
- (3) Determine the necessity for and the extent of security required in any loan; and
  - (4) Establish the interest rates chargeable by the State; provided that each loan granted under this section shall bear a simple interest which shall not exceed seven and one-half per cent.

**§ -3 Venture capital information center; establishment; duties.** (a) The department of planning and economic development shall establish a venture capital information center to promote the development and exploitation of inventions and new products that have direct economic benefits for Hawaii and to facilitate the bringing together of investors desiring to invest money in new products and inventions with inventors and developers of new products seeking financing.

- (b) Among other services, the center shall:
- (1) Develop a promotional program to generate and attract venture capital to Hawaii;
  - (2) Provide interested investors with information on prospective inventors, new products, innovations, and inventions;
  - (3) Maintain a listing of prospective investors, inventors, and developers of new products; and
  - (4) Provide a referral service to bring together investors with venture capital and inventors or developers seeking financing.

**§ -4 Advisory committee.** The director of planning and economic development may appoint an advisory committee of not more than seven members to advise the director on applications for loans from the Hawaii invention development fund. The members shall serve without pay but may be compensated for travel and per diem."

**SECTION 3.** There is appropriated out of the general revenues of the State of Hawaii the following sums:

Fiscal Year 1981-1982: \$50,000

Fiscal Year 1982-1983: \$100,000

The sums appropriated shall be expended by the department of planning and economic development for the purposes of this Act in the following manner: \$5,000 in each fiscal year shall be used for operating expenses; the sum of \$45,000 in fiscal year 1981-1982 and the sum of \$95,000 in fiscal year 1982-1983 shall be deposited in the Hawaii invention development fund created by this Act.

**SECTION 4.** This Act shall take effect July 1, 1981.

(Approved June 29, 1981.)

**ACT 9**

H.B. NO. 9

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. Purpose.** The purpose of this Act is to make an appropriation to

## ACT 10

ensure the continuing operation and effectiveness of the office of Hawaiian affairs.

**SECTION 2. Appropriation.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$415,466, or so much thereof as may be necessary for fiscal year 1981-1982, to carry out the purposes of this Act, including the funding of up to thirty-two positions and a protocol fund of \$5,000. The sum appropriated shall be expended by the office of Hawaiian affairs.

**SECTION 3. Matching funds.** The appropriation made in Section 2 of this Act shall be matched on a one-to-one basis by the office of Hawaiian affairs.

**SECTION 4. Effective date.** This Act shall take effect on July 1, 1981.

(Approved June 29, 1981.)

## ACT 10

H.B. NO. 10

A Bill for an Act Making an Appropriation for Payment of a Judgment Between the State of Hawaii and Sylvia Gamino.

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

**SECTION 1. Findings and purpose.** The purpose of this Act is to provide for the payment of a judgment which resulted from a settlement agreement in the lawsuit captioned *Sylvia Gamino v. State of Hawaii v. Yukio Yamamoto and Yama's General Contractors*, Civil No. 59095 in the First Circuit Court of the State of Hawaii. Miss Gamino sued the State of Hawaii because she was a passenger in a State vehicle driven by a State employee, which vehicle was involved in an accident with another vehicle. As a result of this accident, Miss Gamino was rendered a quadriplegic.

The circuit court granted summary judgment as to liability against the State on February 19, 1980, in effect determining that the State was liable to Miss Gamino and that a trial on liability was not necessary.

With liability having been decided, the case was set for trial on the issue of damages before the Honorable Judge Ronald Greig in August, 1980. After extensive pretrial discovery, consultation with numerous experts and after careful consideration, the Department of the Attorney General agreed to settle this personal injury suit for the total sum of \$4,400,000. The State was insured by Liberty Mutual Insurance Company for the amount of \$300,000, which sum has been paid by Liberty Mutual to the plaintiff. Therefore, the principle amount needed to be appropriated to pay the judgment is \$4,100,000. According to the terms of the judgment entered by the court, that sum should be paid to Ibar, Inc., a California corporation retained by the plaintiff to make predetermined periodic payments to her. Payment to Ibar, Inc., will satisfy the Judgment entered against the State.

**SECTION 2.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$4,100,000, together with four per cent interest of \$164,898.63 to July 31, 1981, to be paid to Ibar, Inc., according to the terms of the Judgment entered in *Sylvia Gamino vs. State of Hawaii vs. Yukio Yamamoto and Yama's General Contractors*, Civil No. 59095, in the First Circuit Court of the State of Hawaii.

**SECTION 3.** The funds appropriated shall lapse on July 31, 1981.

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

(Approved June 29, 1981.)

## ACT 11

H.B. NO. 11

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. The following respective sums of money are hereby appropriated out of the general revenues of the State of Hawaii effective upon approval of this Act to June 30, 1982, for the purpose of compensating the following pursuant to Chapter 351, Hawaii Revised Statutes, the Criminal Injuries Compensation Act, in the amounts set out opposite their respective case numbers:

Case No. 75-43	550.84
Case No. 75-43 (Joseph Battaglia - Attorney)	50.00
Case No. 76-109	555.00
Case No. 76-200	3,951.83
Case No. 76-280	2,131.72
Case No. 76-280 (Dr. Jon Pegg - Medical Services)	119.95
Case No. 76-280 (Queen's Medical Center - Medical Services)	474.71
Case No. 76-280 (The Honolulu Medical Group - Medical Services)	307.68
Case No. 77-15	3,762.76
Case No. 77-15 (Harriet Bouslog - Attorney)	150.00
Case No. 77-62	3,706.34
Case No. 77-75	2,201.20
Case No. 77-101	150.00
Case No. 77-119	1,559.39
Case No. 77-159	7,069.00
Case No. 77-192	25.00
Case No. 77-238	3,025.83
Case No. 77-242	100.00
Case No. 77-272	7,926.83
Case No. 77-272 (Ian Mattoch - Attorney)	75.00
Case No. 77-289	50.00
Case No. 78-5	1,652.64
Case No. 78-48	68.90
Case No. 78-63	1,879.17
Case No. 78-81	674.80
Case No. 78-116	201.50
Case No. 78-124	6,665.16
Case No. 78-128	25.00
Case No. 78-128 (Queen's Medical Center - Medical Services)	126.25
Case No. 78-128 (The Emergency Group Inc - Medical Services)	149.76
Case No. 78-137	3,189.92

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Case No. 78-139	9,745.00
Case No. 78-143	750.00
Case No. 78-145	452.40
Case No. 78-155	731.97
Case No. 78-164	753.60
Case No. 78-170	1,061.00
Case No. 78-170 (Victor Agmata Jr - Attorney)	40.00
Case No. 78-171	910.68
Case No. 78-187	500.00
Case No. 78-192	5,000.00
Case No. 78-200	5,000.00
Case No. 78-208	854.00
Case No. 78-210	100.00
Case No. 78-210 (St. Francis Hospital - Medical Services)	97.50
Case No. 78-210 (The Radiology Group Inc - Medical Services)	26.49
Case No. 78-231	3,956.27
Case No. 78-245	832.00
Case No. 78-249	1,200.00
Case No. 78-249 (Dr. Worldster Lee - Medical Services)	275.60
Case No. 78-249 (Dr. Francis Oda - Medical Services)	164.58
Case No. 78-249 (Queen's Medical Center - Medical Services)	76.17
Case No. 78-249 (The Emergency Group Inc - Medical Services)	77.24
Case No. 78-251	282.63
Case No. 78-253	500.00
Case No. 78-256	1,703.63
Case No. 78-258	538.84
Case No. 78-259	709.56
Case No. 78-260	249.19
Case No. 78-263	4,729.42
Case No. 78-263 (Castle Memorial Hospital - Medical Services)	4,906.55
Case No. 78-264	25.00
Case No. 78-270	1,248.55
Case No. 78-272	560.99
Case No. 78-278	750.00
Case No. 78-280	101.00
Case No. 78-282	750.00
Case No. 78-284	500.00
Case No. 78-287	39.79
Case No. 78-288	750.00
Case No. 78-290	1,500.00
Case No. 78-291	100.00
Case No. 78-292	100.00
Case No. 78-296	163.54
Case No. 78-298	630.57
Case No. 78-299	1,246.43
Case No. 78-302	500.00
Case No. 78-307	750.00

Case No. 78-309	473.38
Case No. 78-312	292.84
Case No. 78-313	750.00
Case No. 78-317	25.00
Case No. 78-317 (Straub Clinic & Hospital Inc - Medical Services)	127.77
Case No. 78-318	750.00
Case No. 78-329	395.00
Case No. 78-336	1,224.92
Case No. 78-339	177.52
Case No. 78-344	621.00
Case No. 78-344 (UCLA Hospital & Clinics - Medical Services)	82.00
Case No. 78-346	1,097.13
Case No. 78-348	150.00
Case No. 78-349	2,500.00
Case No. 78-349 (Queen's Medical Center - Medical Services)	3,269.30
Case No. 78-349 (The Emergency Group Inc - Medical Services)	66.56
Case No. 78-351	350.00
Case No. 78-356	100.00
Case No. 78-359	1,311.64
Case No. 79-6	965.00
Case No. 79-6 (Michael Wong - Attorney)	35.00
Case No. 79-8	1,580.20
Case No. 79-12	3,500.00
Case No. 79-14	113.60
Case No. 79-15	25.00
Case No. 79-16	200.00
Case No. 79-17	294.86
Case No. 79-18	200.00
Case No. 79-19	300.00
Case No. 79-20	50.00
Case No. 79-22	400.00
Case No. 79-29	379.32
Case No. 79-31	279.38
Case No. 79-33	100.00
Case No. 79-36	25.00
Case No. 79-38	100.00
Case No. 79-40	1,000.00
Case No. 79-41	2,618.73
Case No. 79-42	4,019.62
Case No. 79-46	300.00
Case No. 79-46 (Dr. Gunther Hintz - Medical Services)	1,040.00
Case No. 79-46 (Queen's Medical Center - Medical Services)	132.00
Case No. 79-47	1,554.00
Case No. 79-48	50.00
Case No. 79-49	250.00
Case No. 79-51	5,000.00
Case No. 79-63	1,035.44

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Case No. 79-66	1,272.74
Case No. 79-67	1,013.40
Case No. 79-67 (Donald Low - Attorney)	150.00
Case No. 79-69	516.60
Case No. 79-70	1,103.00
Case No. 79-71	645.00
Case No. 79-72	25.00
Case No. 79-75	120.90
Case No. 79-76	2,560.76
Case No. 79-78	286.00
Case No. 79-78 (Kaiser Medical Center - Medical Services)	187.00
Case No. 79-79	1,365.36
Case No. 79-80	195.00
Case No. 79-81	649.48
Case No. 79-82	300.00
Case No. 79-83	150.78
Case no. 79-84	106.54
Case No. 79-86	900.00
Case No. 79-86 (John Himmelman - Attorney)	100.00
Case No. 79-87	25.00
Case No. 79-90	4,441.80
Case No. 79-92	2,000.00
Case No. 79-93	750.00
Case No. 79-93 (Wahiawa General Hospital - Medical Services)	1,106.10
Case No. 79-97	219.00
Case No. 79-97 (Queen's Medical Center - Medical Services)	11.35
Case No. 79-97 (Dr. James Tsuji - Medical Services)	27.50
Case No. 79-97 (The Emergency Group Inc - Medical Services)	55.41
Case No. 79-104	339.50
Case No. 79-109	750.00
Case No. 79-110	150.00
Case No. 79-111	2,483.38
Case No. 79-113	400.00
Case No. 79-113 (Straub Clinic & Hospital Inc - Medical Services)	1,336.36
Case No. 79-115	3,053.66
Case No. 79-115 (Dr. Carl Lum - Medical Services)	951.00
Case No. 79-115 (Alexander Robertson - Attorney)	150.00
Case No. 79-116	25.00
Case No. 79-117	3,128.00
Case No. 79-119	2,559.80
Case No. 79-120	1,355.92
Case No. 79-121	1,422.08
Case No. 79-121 (Dr. Franklin Kometani - Medical Services)	464.00
Case No. 79-121 (Dr. Ignatius Segovia - Medical Services)	144.04
Case No. 79-123	5,000.00
Case No. 79-125	750.00
Case No. 79-128	500.00

Case No. 79-130	800.00
Case No. 79-131	627.60
Case No. 79-132	700.00
Case No. 79-132 (Larry Hanson - attorney)	50.00
Case No. 79-133	70.00
Case No. 79-133 (Queen's Medical Center - Medical Services)	111.25
Case No. 79-133 (Radiology Associates Inc - Medical Services)	19.76
Case No. 79-133 (The Emergency Group Inc - Medical Services)	140.24
Case No. 79-133 (Dr. Benjamin Tom - Medical Services)	22.88
Case No. 79-134	550.00
Case No. 79-134 (Dr. Gunther Hintz - Medical Services)	1,229.59
Case No. 79-134 (Queen's Medical Center - Medical Services)	843.10
Case No. 79-134 (Wahiawa Clinic Inc - Medical Services)	145.60
Case No. 79-134 (Wahiawa General Hospital - Medical Services)	164.10
Case No. 79-135	1,094.00
Case No. 79-138	593.46
Case No. 79-139	600.00
Case No. 79-143	7,243.00
Case No. 79-143 (Dr. Marco Rizzo - Medical Services)	507.00
Case No. 79-143 (James Scharfstein - Attorney)	150.00
Case No. 79-144	1,000.00
Case No. 79-146	100.00
Case No. 79-149	2,777.47
Case No. 79-150	300.00
Case No. 79-160	2,429.74
Case No. 79-160 (Robert Gordon - Attorney)	50.00
Case No. 79-164	1,500.00
Case No. 79-165	200.00
Case No. 79-167	5,077.09
Case No. 79-168	522.14
Case No. 79-173	750.00
Case No. 79-174	1,742.52
Case No. 79-174 (Electrocardiographers - Medical Services)	18.72
Case No. 79-174 (Hawaii Pathologists Laboratory - Medical Services)	20.80
Case No. 79-140 (Dr. John Henrickson Jr. - Medical Services)	130.00
Case No. 79-174 (Medical Anesthesia Inc - Medical Services)	318.24
Case No. 79-174 (Queen's Medical Center - Medical Services)	4,166.06
Case No. 79-174 (Radiology Associates Inc - Medical Services)	57.20
Case No. 79-174 (The Emergency Group Inc - Medical Services)	142.60
Case No. 79-175	1,143.85
Case No. 79-178	2,125.50
Case No. 79-183	2,755.00
Case No. 79-184	693.72
Case No. 79-185	912.07
Case No. 79-187	1,301.44
Case No. 79-187 (Enver Painter - Attorney)	100.00
Case No. 79-188	500.00

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Case No. 79-189	3,000.00
Case No. 79-191	1,780.85
Case No. 79-191 (Jason Wong - Attorney)	50.00
Case No. 79-194	500.00
Case No. 79-195	664.24
Case No. 79-197	50.00
Case No. 79-198	34.32
Case No. 79-199	1,662.54
Case No. 79-201	10,000.00
Case No. 79-203	1,500.00
Case No. 79-205	300.00
Case No. 79-205 (Fronk-Clinic Pearlridge - Medical Services)	273.60
Case No. 79-205 (Pearlridge Hospital - Medical Services)	553.82
Case No. 79-209	200.00
Case No. 79-211	750.00
Case No. 79-212	796.28
Case No. 79-213	1,070.00
Case No. 79-214	1,057.13
Case No. 79-215	561.50
Case No. 79-217	1,271.40
Case No. 79-217 (Castle Memorial Hospital - Medical Services)	7,253.25
Case No. 79-218	1,750.00
Case No. 79-221	569.92
Case No. 79-233	1,020.68
Case No. 79-234	1,500.00
Case No. 79-235	100.00
Case No. 79-235 (G N Wilcox Memorial Hospital & Health Center - Medical Services)	25.00
Case No. 79-236	500.00
Case No. 79-238	400.00
Case No. 79-242	250.00
Case No. 79-243	153.45
Case No. 79-244	650.00
Case No. 79-249	100.00
Case No. 79-250	1,759.02
Case No. 79-252	150.00
Case No. 79-254	3,000.00
Case No. 79-254 (The Hawaii Emergency Physicians Associated Inc - Medical Services)	92.46
Case No. 79-256	1,526.92
Case No. 79-256 (Occupational Medicine & Surgery Inc - Medical Services)	103.48
Case No. 79-257	4,960.89
Case No. 79-258	25.00
Case No. 79-259	801.95
Case No. 79-261	1,151.60
Case No. 79-263	3,062.20

Case No. 79-264	812.63
Case No. 79-264 (The Honolulu Medical Group Inc - Medical Services)	140.18
Case No. 79-265	640.08
Case No. 79-265 (G N Wilcox Memorial Hospital & Health Center - Medical Services)	1,207.70
Case No. 79-265 (Kauai Medical Group Inc - Medical Services)	322.16
Case No. 79-267	50.00
Case No. 79-269	400.00
Case No. 79-269 (Straub Clinic & Hospital Inc - Medical Services)	110.32
Case No. 79-270	470.00
Case No. 79-271	25.00
Case No. 79-274	300.00
Case No. 79-274 (Queen's Medical Center - Medical Services)	104.15
Case No. 79-276	2,009.60
Case No. 79-277	1,000.00
Case No. 79-278	757.55
Case No. 79-281	235.15
Case No. 79-282	1,082.60
Case No. 79-282 (Dr. John Corboy - Medical Services)	64.33
Case No. 79-282 (The Hawaii Emergency Physicians Associated Inc - Medical Services)	34.32
Case No. 79-282 (Queen's Medical Center - Medical Services)	732.15
Case No. 79-282 (Radiology Associates Inc - Medical Services)	94.64
Case No. 79-282 (Dr. Thomas Sakoda - Medical Services)	234.00
Case No. 79-284	561.60
Case No. 79-285	25.00
Case No. 79-286	4,152.80
Case No. 79-286 (Collin Fritz - Attorney)	50.00
Case No. 79-287	159.80
Case No. 79-287 (Fronk-Clinic Pearlridge - Medical Services)	43.68
Case No. 79-287 (Pearlridge Hospital - Medical Services)	39.81
Case No. 79-289	8,104.99
Case No. 79-290	3,915.60
Case No. 79-290 (Stephen Pingree - Attorney)	150.00
Case No. 79-291	1,985.72
Case No. 79-291 (Stephen Pingree - Attorney)	50.00
Case No. 79-292	1,634.26
Case No. 79-294	1,950.00
Case No. 79-294 (Collin Fritz - Attorney)	50.00
Case No. 79-295	1,200.00
Case No. 79-296	9,745.00
Case No. 79-297	750.00
Case No. 79-298	1,237.97
Case No. 79-301	1,014.98
Case No. 79-302	533.00
Case No. 79-303	1,500.00
Case No. 79-304	10,000.00

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Case No. 79-306	360.88
Case No. 79-308	1,000.00
Case No. 79-311	4,988.10
Case No. 79-312	9,495.00
Case No. 79-313	25.00
Case No. 79-314	1,019.90
Case No. 79-314 (Jason Wong - Attorney)	50.00
Case No. 79-315	1,584.80
Case No. 79-317	621.60
Case No. 79-319	527.51
Case No. 79-320	2,205.00
Case No. 79-321	132.80
Case No. 79-323	300.00
Case No. 79-324	2,786.05
Case No. 79-325	200.00
Case No. 79-325 (Michael Matsukawa - Attorney)	50.00
Case No. 79-326	352.75
Case No. 79-327	150.00
Case No. 79-328	25.00
Case No. 79-329	1,000.00
Case No. 79-330	25.00
Case No. 79-331	1,000.00
Case No. 79-332	787.50
Case No. 79-333 (Kaiser Medical Center - Medical Services)	10,000.00
Case No. 79-338	546.97
Case No. 79-339	788.31
Case No. 79-340	300.00
Case No. 79-343	218.12
Case No. 79-344	345.31
Case No. 79-346	1,180.00
Case No. 79-348	25.00
Case No. 79-349	110.00
Case No. 79-351	79.60
Case No. 79-354	1,500.00
Case No. 80-1	25.00
Case No. 80-2	225.00
Case No. 80-3	50.00
Case No. 80-4	325.00
Case No. 80-4 (Wahiawa General Hospital - Medical Services)	114.00
Case No. 80-4 (Victor Agmata Jr - Attorney)	25.00
Case No. 80-7	882.80
Case No. 80-9	1,622.85
Case No. 80-12	124.00
Case No. 80-12 (Waianae Comprehensive Health Center - Medical Services)	95.05
Case No. 80-13	2,500.00
Case No. 80-14	600.00

Case No. 80-20		119.17
Case No. 80-21		1,364.09
Case No. 80-22		50.00
Case No. 80-23		1,000.00
Case No. 80-24		885.20
Case No. 80-26		1,000.00
Case No. 80-30		100.00
Case No. 80-31		620.00
Case No. 80-33		250.00
Case No. 80-33	(G N Wilcox Memorial Hospital & Health Center - Medical Services)	24.40
Case No. 80-36		575.68
Case No. 80-38		100.00
Case No. 80-38	(Queen's Medical Center - Medical Services)	88.45
Case No. 80-39		50.00
Case No. 80-40		250.00
Case No. 80-43		50.00
Case No. 80-44		1,500.00
Case No. 80-46		500.00
Case No. 80-46	(Maui Memorial Hospital - Medical Services)	180.00
Case No. 80-46	(Dr. John McCurdy Jr - Medical Services)	50.00
Case No. 80-46	(Dr. Charles Mitchell - Medical Services)	57.20
Case No. 80-46	(Dr. Eugene Wasson - Medical Services)	36.00
Case No. 80-48		3,673.08
Case No. 80-48	(Dr. John Behnke - Medical Services)	88.40
Case No. 80-48	(Dr. John Hanley - Medical Services)	280.00
Case No. 80-48	(Maui Medical Group Inc - Medical Services)	777.50
Case No. 80-48	(Steven Songstad - Attorney)	50.00
Case No. 80-53		100.00
Case No. 80-54		6,134.84
Case No. 80-57		391.20
Case No. 80-58		50.00
Case No. 80-61		279.41
Case No. 80-62		662.13
Case No. 80-63		50.00
Case No. 80-63	(Hilo Hospital - Medical Services)	20.00
Case No. 80-67		3,872.64
Case No. 80-68		750.00
Case No. 80-69		25.00
Case No. 80-70		100.00
Case No. 80-71		119.14
Case No. 80-74		100.00
Case No. 80-75		1,043.88
Case No. 80-76		100.00
Case No. 80-77		25.00
Case No. 80-78		1,861.36
Case No. 80-79		217.66

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Case No. 80-80		1,020.00
Case No. 80-82		25.00
Case No. 80-83		354.20
Case No. 80-84		1,927.75
Case No. 80-85		388.13
Case No. 80-87		774.04
Case No. 80-88		25.00
Case No. 80-90		1,250.00
Case No. 80-90	(Dr. George Kimata - Medical Services)	60.84
Case No. 80-90	(Kuakini Plaza Radiology - Medical Services)	56.94
Case No. 80-90	(Dr. Allan Kunimoto - Medical Services)	445.18
Case No. 80-90	(Queen's Medical Center - Medical Services)	402.00
Case No. 80-90	(Dr. Ghim Yeoh - Medical Services)	54.60
Case No. 80-95		981.02
Case No. 80-95	(Dr. James Oda - Medical Services)	308.88
Case No. 80-96		1,500.00
Case No. 80-101		377.04
Case No. 80-104		2,444.84
Case No. 80-106		2,339.52
Case No. 80-107		215.24
Case No. 80-110		1,000.00
Case No. 80-111		1,820.48
Case No. 80-112		9,745.00
Case No. 80-114		500.00
Case No. 80-116		118.97
Case No. 80-117		770.64
Case No. 80-118		321.50
Case No. 80-119		333.38
Case No. 80-120		50.00
Case No. 80-121		100.00
Case No. 80-126		25.00
Case No. 80-127		500.00
Case No. 80-132		9,745.00
Case No. 80-133		265.00
Case No. 80-133	(Fronk-Clinic Pearridge - Medical Services)	85.49
Case No. 80-133	(Pearridge Hospital - Medical Services)	95.13
Case No. 80-136		310.00
Case No. 80-140		100.00
Case No. 80-141		337.00
Case No. 80-142		500.00
Case No. 80-142	(G N Wilcox Memorial Hospital & Health Center - Medical Services)	410.50
Case No. 80-142	(Kauai Medical Group Inc - Medical Services)	141.10
Case No. 80-143		650.00
Case No. 80-143	(G N Wilcox Memorial Hospital & Health Center - Medical Services)	1,339.35
Case No. 80-143	(Kauai Medial Group Inc - Medical Services)	280.00

Case No. 80-145	750.00
Case No. 80-145 (G N Wilcox Memorial Hospital & Health Center - Medical Services)	136.80
Case No. 80-146	500.00
Case No. 80-147	150.00
Case No. 80-147 (G N Wilcox Memorial Hospital & Health Center - Medical Services)	25.00
Case No. 80-152	283.46
Case No. 80-153	250.00
Case No. 80-154	517.25
Case No. 80-156	182.54
Case No. 80-157	200.00
Case No. 80-158	1,000.00
Case No. 80-162	1,368.65
Case No. 80-167	10,000.00
Case No. 80-171	50.00
Case No. 80-172	100.00
Case No. 80-173	360.94
Case No. 80-175	25.00
Case No. 80-176	100.00
Case No. 80-176 (Straub Clinic & Hospital Inc - Medical Services)	434.80
Case No. 80-179	1,034.71
Case No. 80-182	665.00
Case No. 80-183	2,581.36
Case No. 80-184	500.00
Case No. 80-186	494.00
Case No. 80-187	25.00
Case No. 80-188	6,066.72
Case No. 80-190	1,500.00
Case No. 80-192	175.88
Case No. 80-194	338.76
Case No. 80-197	1,450.00
Case No. 80-197 (Jo Kim - Attorney)	50.00
Case No. 80-198	250.00
Case No. 80-199	250.00
Case No. 80-204	503.37
Case No. 80-205	75.00
Case No. 80-207	1,731.59
Case No. 80-208	2,474.76
Case No. 80-209	700.42
Case No. 80-209 (Duncan Manson - Attorney)	50.00
Case No. 80-210	500.00
Case No. 80-211 (Kaiser Medical Center - Medical Services)	181.00
Case No. 80-212	1,008.00
Case No. 80-214	2,889.19
Case No. 80-214 (St. Francis Hospital - Medical Services)	103.30
Case No. 80-215	4,728.11

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Case No. 80-215 (Dr. Charles Mitchell - Medical Services)	425.22
Case No. 80-216	273.60
Case No. 80-216 (Dr. John Mills - Medical Services)	22.88
Case No. 80-217	180.50
Case No. 80-218	350.00
Case No. 80-219	500.00
Case No. 80-220	443.36
Case No. 80-221	25.00
Case No. 80-223	200.00
Case No. 80-224	3,050.87
Case No. 80-225	1,200.00
Case No. 80-227	200.00
Case No. 80-229	100.00
Case No. 80-230	2,441.62
Case No. 80-232	100.00
Case No. 80-233	100.00
Case No. 80-234	95.07
Case No. 80-236	200.00
Case No. 80-237	3,000.00
Case No. 80-239 (Straub Clinic & Hospital Inc - Medical Services)	2,198.94
Case No. 80-240	3,096.40
Case No. 80-241	1,000.00
Case No. 80-243	100.00
Case No. 80-244	2,500.00
Case No. 80-245	94.38
Case No. 80-246	250.00
Case No. 80-247	3,875.80
Case No. 80-248	250.00
Case No. 80-248 (Straub Clinic & Hospital Inc - Medical Services)	219.63
Case No. 80-255	6,003.11
Case No. 80-255 (Anson Rego - Attorney)	75.00
Case No. 80-258	108.92
Case No. 80-259	371.38
Case No. 80-260	200.00
Case No. 80-265	403.64
Case No. 80-267	50.00
Case No. 80-269	2,416.72
Case No. 80-271	75.00
Case No. 80-272	4,236.03
Case No. 80-278	250.00
Case No. 80-278 (The Radiology Group Inc - Medical Services)	60.08
Case No. 80-278 (St. Francis Hospital - Medical Services)	225.75
Case No. 80-280	1,350.00
Case No. 80-280 (The Honolulu Medical Group Inc - Medical Services)	72.80
Case No. 80-280 (The Emergency Group Inc - Medical Services)	46.80
Case No. 80-280 (Dr. Marc Shlachter - Medical Services)	24.20

Case No. 80-282	200.00
Case No. 80-285	25.00
Case No. 80-288	100.00
Case No. 80-288 (St. Francis Hospital - Medical Services)	1,761.37
Case No. 80-288 (The Hawaii Anesthesia Group Inc - Medical Services)	353.60
Case No. 80-288 (The Hawaii Neurological Clinic Inc - Medical Services)	1,292.00
Case No. 80-288 (The Radiology Group Inc - Medical Services)	81.54
Case No. 80-288 (Young K. Paik & Associates Inc - Medical Services)	26.00
Case No. 80-289	50.00
Case No. 80-290	500.00
Case No. 80-296	5,522.58
Case No. 80-297	250.00
Case No. 80-298	1,000.00
Case No. 80-301	458.05
Case No. 80-302	3,148.78
Case No. 80-303	200.00
Case No. 80-303 (Dr. Catalino Cachero - Medical Services)	14.88
Case No. 80-303 (The Radiology Group Inc - Medical Services)	52.40
Case No. 80-303 (St. Francis Hospital - Medical Services)	540.09
Case No. 80-309	100.00
Case No. 80-310	200.00
Case No. 80-311	680.01
Case No. 80-314	382.40
Case No. 80-320	25.00
Case No. 80-320 (Dr. Reginald Carvalho - Medical Services)	13.73
Case No. 80-320 (Hilo Hospital - Medical Services)	60.62
Case No. 80-322	50.00
Case No. 80-322 (Waianae Coast Comprehensive Health Center - Medical Services)	51.75
Case No. 80-323	500.00
Case No. 80-325	25.00
Case No. 80-331	305.18
Case No. 80-332	154.32
Case No. 80-334	2,310.55
Case No. 80-335 (Dr. Allan Kunimoto - Medical Services)	38.48
Case No. 80-335 (Queen's Medical Center - Medical Services)	136.50
Case No. 80-335 (The Emergency Group Inc - Medical Services)	114.19
Case No. 80-338	2,741.88
Case No. 80-340 (Kaiser Medical Center - Medical Services)	165.70
Case No. 80-341	588.56
Case No. 80-344	1,576.50
Case No. 80-348	100.00
Case No. 80-350	1,084.37
Case No. 80-350 (Donna Woo - Attorney)	50.00
Case No. 80-351	130.00

## **ACT 12**

Case No. 80-355	287.86
Case No. 80-357	444.18
Case No. 80-359	82.72
Case No. 80-375	500.00
Case No. 80-414	120.00

**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 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, 1982, shall lapse into the general fund of the State.

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

(Approved June 29, 1981.)

## **ACT 12**

**H.B. NO. 12**

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, and others for overpayment of taxes or on account of other claims for refunds, reimbursements, or other payments, against the State in the amount set opposite their names:

Section 37-77, Hawaii Revised Statutes.

	<b>Taxation Division</b>	<b>Amount</b>
<b>REFUND OF TAXES:</b>		
John D. Penner Corp., Ltd. (Real Property)	Third	\$ 52.12
Matsuo, Chiaki (Real Property)	Third	1,786.32
Matsumura, Grace M. (Real Property)	First	368.88
Chattin, Agnes (Real Property)	Fourth	717.93
Senda, Akiko, et al. (Real Property)	Fourth	202.70

	Taxation Division	Amount
Dillingham Tug & Barge Corporation — TMK 1-5-38-14 (Real Property)	First	3,900.99
Dillingham Tug & Barge Corporation — TMK 1-5-39-32 (Real Property)	First	42,739.20
Oahu Railway & Terminal Warehousing Co. TMK 1-5-38-13 (Real Property)	First	20,484.09
Young Brothers, Ltd. TMK 1-5-38-12	First	25,103.03
Oahu Railway and Terminal Warehousing Company	First	14,731.82
Warner, Ronald H. and Mary	Third	348.88

**JUDGMENTS AGAINST THE STATE AND  
SETTLEMENT OF CLAIMS:**

Christenberry, Merle and Charles Civil No. 52230, First Circuit Date of Judgment: 1/24/80 Amount of Judgment: 4% Interest:	\$ 12,961.65 786.93	\$ 13,748.58
Burns, Dorothy Anders Civil No. 58436, First Circuit Date of Judgment: 10/27/80 Amount of Judgment: 4% Interest:	12,173.51 369.54	12,543.05
Kubota, Evelyn and Thomas T. Civil No. 55524, First Circuit Date of Judgment: 7/11/80 Amount of Judgment: 4% Interest:	5,000.00 210.96	5,210.96
Torres, Rosanna, individually, Rosanna Torres, as next friend of Peter Torres, Jr., a minor, and Rosanna Torres, personal representative of the Estate of Peter Torres, deceased Civil No. 3725, Second Circuit Date of Judgment: 8/18/80 Amount of Judgment: 4% Interest:	40,000.00 1,521.10	41,521.10

**ACT 12**

	<b>Taxation Division</b>	<b>Amount</b>
Higashiguchi, Dennis T., individually and as Prochein Ami of Dennis T. Higashiguchi, Jr., a minor, and Kay Higashiguchi Civil No. 57982, First Circuit Date of Judgment: 2/19/81		
Amount of Judgment:	5,000.00	
4% Interest:	88.77	5,088.77
Rosa, Rebecca, individually and as Special Administrator of the Estate of Katherine Rosa, Deceased, and as Co-Next Friend to Angela Lundgren, a minor, Edwin Lundgren, individually as a Co-Next Friend to Angela Lundgren, a minor, Valerie Lundgren and Jeri Nickle, as Special Administrator of the Estate of Terri Lundgren, Deceased Civil No. 56661, First Circuit Date of Judgment: 2/10/81		
Amount of Judgment:	85,000.00	
4% Interest:	None	85,000.00
Lorenger, Doris Civil No. 55853, First Circuit Date of Judgment: 2/24/81		
Amount of Judgment:	12,500.00	
4% Interest:	215.07	12,715.07
Furumoto, Betty A., Temporary Administratrix of the Estate of Charles S. Furumoto, Thomas Furumoto, Mitsuwa Kamaboko Factory, Limited Civil No. 39145, First Circuit Date of Judgment: 3/12/81		
Amount of Judgment:	7,500.00	
4% Interest:	115.89	7,615.89
Central Pacific Development Corporation Civil No. 64026, First Circuit Date of Judgment: 2/12/81		
Amount of Judgment:	4,550.30	
4% Interest:	84.77	4,635.07
Penrose, Era, et al. Civil No. 56895, First Circuit Date of Judgment: 2/6/81		
Amount of Judgment:	65,000	
4% Interest:	1,246.58	66,246.58

Taxation Division	Amount
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Egdamin, Joseph, Jr.;  
 Manloloyo, Alejandra, Personal Representative  
 of the Estate of Leatrice B. Rabacal; Lester  
 Rabacal, as Guardian Ad Litem of Lance Rabacal,  
 a minor; Lester Rabacal, as Guardian Ad  
 Litem of Raquel Rabacal, a minor; Lester  
 Rabacal, as a Guardian Ad Litem of Peter  
 Rabacal, a minor; and Gertrude Cason  
 Civil No. 54551, First Circuit  
 Date of Judgment: 1/28/81

Amount of Judgment	300,000.00	Amount
4% Interest:	6,049.31	
	306,049.31	

Lui, Abel  
 Civil No. 54732, First Circuit  
 Date of Judgment: 2/3/81

Amount of Judgment:	4,000.00	Amount
4% Interest:	78.03	
	4,078.03	

Burnett, Cassandra  
 Civil No. 77-0393, U.S.D.C.  
 Date of Judgment: 3/24/81

Amount of Judgment	11,822.00	Amount
Payment for Attorney Fees	16,850.86	
	28,672.86	

Hawkins Audio Engineers, Inc.  
 Civil No. 62145, First Circuit  
 Data of Filing of Settlement  
 Agreement: 4/3/81  
 Amount of Settlement:

	10,748.40	
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Warrant No.	Amount
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**OUTLAWED WARRANTS AND ESCHEATED  
ACCOUNTS:**

Tamura, Cary K.	S 152565	\$ 20.43
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Amount
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**MISCELLANEOUS CLAIMS:**

Hong, Kwai Ing  
 Reimbursement for seizure and destruction of catfish fingerlings, which were imported under permit issued by State Department of Agriculture, by the U.S. Fish and Wildlife Service.

	\$4,499.36
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**ACT 12**

	<b>Amount</b>
Montague, George Payment of interest on settlement of U.S.D.C. Civil No. 77-0208, George Montague v. George Ariyoshi, et al.	2,016.44
Escue, Charles H. Reimbursement for trousers which was torn by chair at the Hawaii State Prison, October 15, 1979.	22.00
Escue, Charles H. Reimbursement for trousers which was torn by chair at the Hawaii State Prison, October 17, 1979.	19.00
Kanachovski, Joan Reimbursement for trousers which was torn by protruding object while getting into No. 9 Van at the Hawaii State Prison, June 1, 1980.	25.00
Ventura, Sheila C. Reimbursement for destruction of personal property (car tire) in the Mahelona Hospital O.T. parking lot, July 23, 1979.	51.95
Robledo, Florida M. Reimbursement for destruction of personal property (car tire) in the Mahelona Hospital O.T. parking lot, August 20, 1979.	40.95
Cagle, Kathleen L. Reimbursement for destruction of personal property (blouse) by resident at Waimano Training School and Hospital, January 23, 1980.	18.00
Gabriel, Lavern Puunani Reimbursement for destruction of windshield wiper by resident at Waimano Training School and Hospital, June 14, 1980.	15.91
Chambers, Paula S. Reimbursement for personal property (camera) stolen from classroom at Kaiser High School, May 14, 1980.	84.53
Chinen, Maile N. Reimbursement for damage to wristwatch in toilet training special education child at Aina Haina Elementary School, May 23, 1980.	29.00
Chung, Mae Kui Len Reimbursement for replacement of car windshield damaged in teachers' parking lot at McKinley High School, February 4, 1980.	100.00
DeLorenzo, Bob Reimbursement for personal property (JVC FM/AM, 5-Band short wave radio, stereo cassette recorder) stolen from classroom at McKinley High School, November 24, 1980.	319.00

	<b>Amount</b>
Mau, Gwendolyn Naomi Watanabe Reimbursement for damage to car trunk key lock in the parking lot at Farrington High School, January 9, 1980.	18.78
Nakagawa, Ikuo Reimbursement for damage to automobile in parking lot at Wahiawa Intermediate School, September 25, 1980.	150.00
El-Swaify, Charlene Hinkle Reimbursement for destruction of automobile tire at S.W. King Intermediate School, February 26, 1980.	15.18
Exstrom, David Donn Reimbursement for destruction of three automobile tires at S.W. King Intermediate School, February 26, 1980.	129.45
Kane, Elizabeth Ann Reimbursement for destruction of two automobile tires at S.W. King Intermediate School, February 26, 1980.	74.90
Mazza, Margaret Faye Reimbursement for destruction of an automobile tire at S.W. King Intermediate School, February 26, 1980.	37.91
Meierdiercks, Anna Karin Reimbursement for destruction of two automobile tires at S.W. King Intermediate School, February 26, 1980.	49.92
Nakamoto, Emily Yun Fun Reimbursement for destruction of two automobile tires at S.W. King Intermediate School, February 26, 1980.	116.08
Oku, Helen S. Reimbursement for personal property (purse and contents) stolen from custodian room at Keolu Elementary School, February 19, 1980.	195.00
Tani, Agnes L. Reimbursement for destruction of an automobile tire at S.W. King Intermediate School, February 26, 1980.	25.00
Uechi, Arlene S. Reimbursement for destruction of an automobile tire at S.W. King Intermediate School, February 26, 1980.	46.88
Woodall, William D. Reimbursement for damage to automobile at Waimea High School, October 18, 1979.	114.40
Tashiro, Ora A. Reimbursement for damage to car at Kaimuki Intermediate School parking lot, May 22, 1979 and June 1, 1979.	208.00

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	<b>Amount</b>
Nichols, Norma Reimbursement for damage to car at McKinley High School, October 22, 1979, and December 2, 1979.	180.00
Taniguchi, Katherine Y. Reimbursement for damage to automobile at McKinley High School, September 10, 1980.	198.64
Anjo, Alvin A., Jr. Reimbursement for damage to automobile at Kalani High School, October 24, 1980.	310.00
Jackson, Bernice R. Reimbursement for loss of radio, February 8, 1980.	20.00
Samson, Robert W. Reimbursement for damage to automobile at Campbell High School, December 22, 1978.	39.87

**SECTION 2.** The sums hereinabove appropriated shall be paid to the respective persons and in the several amounts hereinabove set out 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 and (2) upon vouchers approved by the director of finance 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 of four per cent a year, shall be limited to the period from the date of judgment or court approval of the settlement to the effective date of this Act, as provided in section 662-8, Hawaii Revised Statutes, and all unexpended balances thereof after payment shall lapse into the general fund of the State as of the close of business on June 30, 1982.

**SECTION 4.** If any portion of this Act or its application to any circumstances or person is held invalid for any reason, the remainder thereof shall not be affected thereby.

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

(Approved June 29, 1981.)

## ACT 13

H.B. NO. 13

A Bill for an Act Relating to the Hawaii Housing Authority.

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

**SECTION 1.** Section 356-201, Hawaii Revised Statutes, is amended by amending the definition of "housing loan programs" to read:

"Housing loan programs" includes all or any part of the loan to lenders program, the purchase of existing loans program, the advance commitments program, and the eligible loan and eligible project loan funding program authorized under this part."

SECTION 2. Section 7 of Act 50, Session Laws of Hawaii 1979, as amended, is amended to read:

**"Section 7. Issuance of revenue bond; amount authorized.** Revenue bonds may be issued by the authority pursuant to part III, chapter 39 and part II, chapter 356, Hawaii Revised Statutes, in an aggregate principal amount not to exceed \$475,000,000 at such times and in such amounts as it deems advisable for the purpose of undertaking and maintaining any of the housing loan programs in part II of chapter 356, Hawaii Revised Statutes, relating to the funding or purchasing of eligible loans."

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

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

(Approved June 29, 1981.)

#### ACT 14

H.B. NO. 14

A Bill for an Act Authorizing the Issuance of Special Purpose Revenue Bonds to Secure Long-Term Mortgage Refinancing for the Pohai Nani Good Samaritan Kauhale Health Care Facility.

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

SECTION 1. The legislature finds that the health and welfare of the State's elderly deserve serious consideration, attention, and assistance from the state government. The Pohai Nani Good Samaritan Kauhale, a retirement and health care facility, located in Kaneohe, Oahu, is a private institution which has been providing residential and health care services to the elderly for the past seventeen years.

The legislature further finds that due to recent increases in long-term mortgage refinancing costs for the retirement facility, the Evangelical Lutheran Good Samaritan Society, a nonprofit corporation and owner of the facility, has been forced to raise current rents by twenty per cent. The current and potential rent increases will cause serious economic hardships on the elderly residents by either pricing health care services at extremely high rates or beyond their ability to pay for these services. The legislature finds it in the public interest that appropriate governmental measures be implemented to ameliorate this situation.

The legislature further finds that chapter 39A, part II, Hawaii Revised Statutes, permits the State to financially assist nonprofit corporations providing health care facilities to the general public by issuing special purpose revenue bonds. The legislature also finds that since the Evangelical Lutheran Good Samaritan Society is a national nonprofit corporation providing health care facilities for the elderly, it would be appropriate and in the public interest to assist this corporation. Furthermore, assistance in the form of special purpose revenue bonds would:

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## **ACT 15**

- (1) Result in lower long-term refinancing costs to the Society since the special purpose revenue bonds would bear a lower interest rate than that charged by private lenders; and
- (2) Eliminate the need to charge higher rents and health care fees for elderly residents of the retirement and health care facility.

The legislature further finds that issuing special purpose revenue bonds for the purpose of securing long-term mortgage refinancing for the retirement and health care facility will assist in making health care services available to the State's elderly at affordable prices and is therefore in the public interest.

The legislature further finds that no review of the financial records of the Evangelical Lutheran Good Samaritan Society has been made. Therefore, the legislature directs the department of budget and finance to conduct all reviews and impose all safeguards provided in chapter 39A, part II, Hawaii Revised Statutes, to ensure that the purposes for which the special purpose bonds were authorized are met.

**SECTION 2.** The director of finance is authorized to issue special purpose revenue bonds in the sum of \$9,000,000, or so much thereof as may be necessary, for fiscal years 1981-1982, 1982-1983, and 1983-1984, to secure mortgage refinancing or insured financing for the Pohai Nani Good Samaritan Kauhale health care facility.

**SECTION 3.** Any unused portion of the authorization made by this Act as of the close of business on June 30, 1984, shall lapse.

**SECTION 4.** Act 41, Session Laws of Hawaii 1981 (Regular Session of 1981), is repealed.

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

(Approved June 29, 1981.)

## **ACT 15**

**H.B. NO. 15**

**A Bill for an Act Relating to the Authorization 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 under this Act is in the public interest and for the public health, safety, and general welfare.

**SECTION 2.** The department of budget and finance is authorized to issue special purpose revenue bonds in a total amount not to exceed \$72,252,000 in one or more series 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:

<b>Company</b>	<b>Amount of Authorization</b>
Hawaiian Electric Co. (Oahu)	Multi-project capital improvement program, including generating facilities and power plant additions and/or

Company	Amount of Authorization
electric systems, for the financing of which special purpose revenue bonds will be issued during the period from July 1, 1981 through June 30, 1984.....	\$42,580,000
<b>Hawaii Electric Light Co.</b>	
Multi-project capital improvement program, including the acquisition of land, generating facilities and power plant additions and/or electric systems, for the financing of which special purpose revenue bonds will be issued during the period from July 1, 1981 through June 30, 1984 .....	\$18,645,000
<b>Maui Electric Co.</b>	
Multi-project capital improvement program, including generating facilities and power plant additions and/or electric systems, for the financing of which special purpose revenue bonds will be issued during the period from July 1, 1981 through June 30, 1984.....	\$ 7,727,000
<b>Citizens Utilities Co. (Kauai)</b>	
Multi-project capital improvement program, including the acquisition of land, generating facilities and power plant additions and/or electric systems, for the financing of which special purpose revenue bonds will be issued during the period from July 1, 1981 through June 30, 1984 .....	<u>\$ 3,300,000</u>
<b>Total Authorization</b>	<b>\$72,252,000</b>

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 none shall be used for new fossil fuel generating units and none shall be used for nuclear fuel generating units.

SECTION 3. The public utilities commission shall annually report to the legislature as to the progress under this Act in reducing financing costs of electric utilities, including the cost of such 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 special purpose revenue bonds issued under this Act shall

## **ACT 16**

be issued pursuant to chapter 39A, part , Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist utilities serving the general public in providing electric energy.

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

(Approved June 29, 1981.)

## **ACT 16**

**H.B. NO. 16**

A Bill for an Act Relating to Special Purpose Revenue Bonds for Health Care Facilities.

*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 department of budget and finance is authorized to issue special purpose revenue bonds to assist not-for-profit corporations that provide health care facilities to the general public to be used for financing or refinancing as follows:

1.	Castle Memorial Hospital For refinancing of long-term debt and new construction and renovation	\$ 9,100,000
2.	G.N. Wilcox Hospital For refinancing of long-term debt	1,000,000
3.	Kaiser Foundation Hospitals For construction of new hospital at Moanalua and refurbishment of Waikiki facility	40,000,000
4.	Kapiolani-Children's Medical Center For refinancing of long-term debt	8,000,000
5.	Kuakini Medical Center For refinancing of long-term debt	20,000,000
6.	The Queen's Medical Center For new construction	60,000,000
7.	St. Francis Hospital For refinancing of long-term debt	13,000,000
8.	Wahiawa General Hospital For new construction and renovation	11,800,00

**SECTION 3.** The special purpose revenue bonds issued under this Act shall be issued pursuant to chapter 39A, part II, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist not-for-profit corporations that provide health care facilities to the general public.

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

(Approved June 29, 1981.)

**ACT 17**

**H.B. NO. 17**

A Bill for an Act Making an Appropriation for the Redevelopment of the Aloha Tower Complex.

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

SECTION 1. There is hereby appropriated out of revenue bond funds the sum of \$33,260,000, or so much thereof as may be necessary, for fiscal years 1981-82, 1982-83, and 1983-84, for the public participation portion of the redevelopment of the Aloha Tower Complex.

SECTION 2. The Aloha Tower Development Corporation, with the approval of the Governor, is authorized to issue revenue bonds for the purposes of this Act; provided that the sum total of the bonds so issued shall not exceed \$33,260,000; and provided that no bonds shall be issued under this Act and no demolition or site development shall proceed until development proposals have been incorporated into firm contractual commitments.

SECTION 3. The sum appropriated shall be expended by the Aloha Tower Development Corporation for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 1981.

(Approved June 29, 1981.)

**ACT 18**

**H.B. NO. 20**

A Bill for an Act Relating to General Obligation Bonds of the State of Hawaii.

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

SECTION 1. Notwithstanding the interest rate limitation contained in section 39-5, Hawaii Revised Statutes, bonds issued after June 30, 1981 but prior to March 31, 1982 under part I of Chapter 39, Hawaii Revised Statutes, may bear interest, payable annually or semi-annually, at a rate or rates not exceeding twelve per cent a year.

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

(Approved June 29, 1981.)

**ACT 19**

**S.B. NO. 1**

A Bill for an Act Relating to Indexing the Hawaii Revised Statutes.

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

SECTION 1. The director of the office of the legislative reference bureau is authorized to contract with a qualified law book publisher or other competent persons for the preparation of a re-compiled comprehensive index to the Hawaii Revised Statutes which shall include index references to the Hawaii and United States constitutions and the Hawaiian Homes Commission Act.

## **ACT 20**

**SECTION 2.** As soon as the work of indexing is completed sufficient copies of the index are to be printed under contract in conformance with chapter 23G, part II, Hawaii Revised Statutes. The index shall be made up, printed, and bound to correspond as nearly as practicable with the present index volume of the Hawaii Revised Statutes or in such other form or manner as the office of the legislative reference bureau deems advisable.

**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 the fiscal biennium 1981-1983, 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, 1983 shall lapse into the general fund.

**SECTION 4.** The sum appropriated shall be expended by the office of the legislative reference bureau for the purposes of this Act.

**SECTION 5.** Act 64, Session Laws of Hawaii 1981, is repealed.

**SECTION 6.** This Act shall take effect on July 1, 1981.

(Approved June 29, 1981.)

## **ACT 20**

**S.B. NO. 2**

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

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

## **PART I**

**SECTION 1.** There is hereby appropriated or authorized from the sources of funding indicated below to Program Planning, Analysis, Budgeting (BUF 101) the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1981-83 all collective bargaining cost items in the agreements negotiated with the exclusive bargaining representatives of collective bargaining units 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 13.

	<b>FY 1981-82</b>	<b>FY 1982-83</b>
General Funds	33,842,483	76,043,698
Federal Funds	4,640,938	10,109,254
Special Funds	5,246,969	10,237,575
Other Funds	580,502	1,244,890

**SECTION 2.** Funds appropriated or authorized by this Part shall be allotted by the director of finance in the respective fiscal year for the purposes of this Part.

**PART II**

SECTION 3. 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, to fund for the fiscal biennium 1981-83 all collective bargaining cost items in the agreements negotiated with the exclusive bargaining representatives of collective bargaining units 1, 2, 3, 4, 9, 10 and 13:

	<b>FY 1981-82</b>	<b>FY 1982-83</b>
General Funds	813,187	1,621,097
Federal Funds	-0-	-0-
Special Funds	-0-	-0-

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

**PART III**

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, 1982, and June 30, 1983, of the respective fiscal years shall lapse as of those dates.

SECTION 7. This Act shall take effect on July 1, 1981.

(Approved June 29, 1981.)

**ACT 21**

S.B. NO. 3

A Bill for an Act Relating to Medical Claim Conciliation Panels.

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

SECTION 1. Section 671-11, Hawaii Revised Statutes, is amended to read:

**“§671-11 Medical claim conciliation panels; composition, selection, compensation.** (a) There are established medical claim conciliation panels which shall review and render findings and advisory opinions on the issues of liability and damages in medical tort claims against health care providers.

(b) A medical claim conciliation panel shall be formed for each claim filed pursuant to section 671-12 and after each panel renders its decision or the claim is otherwise disposed of it shall be disbanded. Each medical claim conciliation panel shall consist of one chairperson selected from among persons who are familiar with and experienced in the personal injury claims settlement process, one attorney

## **ACT 22**

licensed to practice in the courts of the State and experienced in trial practice, and one physician or surgeon licensed to practice under chapter 453. The chairperson shall be appointed by the chief justice of the supreme court of Hawaii. The attorney shall be appointed by the chairperson from a list of not less than thirty-five attorneys experienced in trial practice submitted annually by the supreme court. The physician or surgeon shall be appointed by the chairperson from a list of not less than thirty-five physicians or surgeons submitted annually by the board of medical examiners.

The chairperson shall preside at the meetings of the panel. The chairperson and all panel members shall be compensated at the rate of \$100 per claim handled which will become payable when the decision of the panel is submitted and shall be paid allowances for travel and living expenses which may be incurred as a result of the performance of their duties on the panel. Such costs shall be paid by the department of regulatory agencies.

The office and meeting space, secretarial and clerical assistance, office equipment, and office supplies for the panel shall be furnished by the department of regulatory agencies.

The board of medical examiners shall prepare a list of physicians and surgeons along with their respective specialties who shall then be considered consultants to the panel in their respective fields. Panel members may consult with other legal, medical, and insurance specialists. Any consultant called by the panel to appear before the panel shall be paid an allowance for travel and living expenses which may be incurred as a result of such person's appearance before the panel. Such costs shall be paid by the department of regulatory agencies."

**SECTION 2.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000, or so much thereof as may be necessary, for the fiscal biennium beginning July 1, 1981, and ending June 30, 1983. The sum appropriated shall be expended by the department of regulatory agencies for the purposes of this Act.

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

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

(Approved June 29, 1981.)

## **ACT 22**

**S.B. NO. 4**

A Bill for an Act Relating to Counsel and Other Services for Indigent Defendants in Criminal and Related Cases.

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

**SECTION 1.** Section 802-5, Hawaii Revised Statutes, is amended to read as follows:

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

**"§802-5 Appointment of counsel; compensation.** (a) When it shall appear to a judge that a person requesting the appointment of counsel satisfies the requirements of this chapter, the judge shall appoint counsel to represent him at all stages of the proceedings including appeal, if any. If conflicting interests exist, or if the interests of justice require, the court may appoint private counsel, who shall receive reasonable compensation for necessary expenses, including travel, the amount of which shall be determined by the court, and fees pursuant to subsection (b). All such expenses shall be certified by the court. Duly certified claims for payment shall be paid upon vouchers approved by the director of finance and warrants drawn by the comptroller.

(b) The court shall determine the amount of reasonable compensation to appointed counsel, based on the rate of \$30 an hour for out-of-court services, and \$40 an hour for in-court services and with a maximum fee in accordance with the following schedule:

(1) Class A felony case	\$2,000
(2) Any other felony case	1,500
(3) Misdemeanor case - jury trial	1,000
(4) Misdemeanor case - jury waived	500
(5) Appeals to the supreme court or intermediate appellate court	1,500
(6) Petty misdemeanor case	300
(7) Post conviction proceeding	1,500
(8) Any other type of administrative or judicial proceeding including cases arising under chapter 571	1,000

Payment in excess of any maximum provided for under paragraphs (1), (2), and (5), where extended or complex representation is needed, may be made for good cause shown on the record by the appointing judge, but shall not exceed an amount twice the maximum allowable fees for such representation.

(c) The public defender and the judiciary shall submit to the department of budget and finance for inclusion in the department's budget request for each fiscal biennium the amount required for each fiscal year for the payment of fees and expenses pursuant to subsection (a)."

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$400,000, or so much thereof as may be necessary for fiscal year 1981-1982 and \$400,000, or so much thereof as may be necessary for fiscal year 1982-1983 to be expended by the department of budget and finance (BUF 101) for the purposes of this Act.

SECTION 3. Chapter 611, Hawaii Revised Statutes, is repealed.

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

SECTION 5. This Act shall take effect on July 1, 1981.

(Approved June 29, 1981.)

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.



# **TABLES SHOWING EFFECT OF ACTS**

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## **GENERAL INDEX**

**TABLES SHOWING EFFECT OF ACTS**  
**ELEVENTH LEGISLATURE, REGULAR AND**  
**FIRST SPECIAL SESSIONS OF 1981**  
**STATE OF HAWAII**

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 N= New  
 R= Repealed  
 Ree= Reenacted  
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